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CONTENTS.

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On receipt of $2 or eight shillings English or ten francs, this JOURNAL will be sent post-paid, for one year, to the subscriber who is a member of either of said societies. Contributions are also solicited from members of these bodies to the columns of the JOURNAL and the Library of the Society, and their interest, encouragement and sympathy with this work is earnestly desired.

Sample copies of the same number will be sent to prominent gentlemen connected with both professions, and to others known or believed to be interested in the science of Medical Jurisprudence, in the hope that those who receive them will also subscribe and interest others friendly to the science to do so, and thus support and aid the JOURNAL in the work it has undertaken. The publishers would be glad to hear direct from every gentleman to whom the sample copies are sent.

THE

MEDICO-LEGAL JOURNAL.

PUBLISHED UNDER THE AUSPICES OF THE MEDICO-LEGAL SOCIETY OF NEW YORK.

CLARK BELL, EDITOR.

VOL. II.

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THE MEDICO-LEGAL JOURNAL.

A Quarterly devoted to the Science of Medical Jurisprudence,

PUBLISHED UNDER THE AUSPICES OF THE MEDICO-LEGAL SOCIETY OF THE CITY OF NEW YORK.

It is a noticeable fact that there is no Journal at present, in any part of the world, devoted exclusively to this subject. This publication consequently will occupy an entirely new field, and in that respect may claim for itself the notice of members of the legal and medical professions in every country. It hopes to do even more than this, and by presenting the subjects and topics which properly come within its scope, in a clear and attractive manner to command the attention of the general reader and enlist his support.

This Journal will publish the leading papers of the Medico-Legal Society, and a resume of its transactions. Its columns will at the same time be open to contributions from all sources and from all parts of the world, on appropriate subjects and questions. It will endeavor to chronicle interesting facts and scientific deductions within its domain, and keep a record of current events, especially in the trial of cases in the courts which involve Medico-Legal questions.

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Subscriptions are solicited, which may be made to the JOURNAL, to any officer of the Medico-Legal Society, to CLARK BELL, Esq., 128 Broadway, N. Y., of whom specimen copies can be obtained on application, at a cost of 40 cents each.

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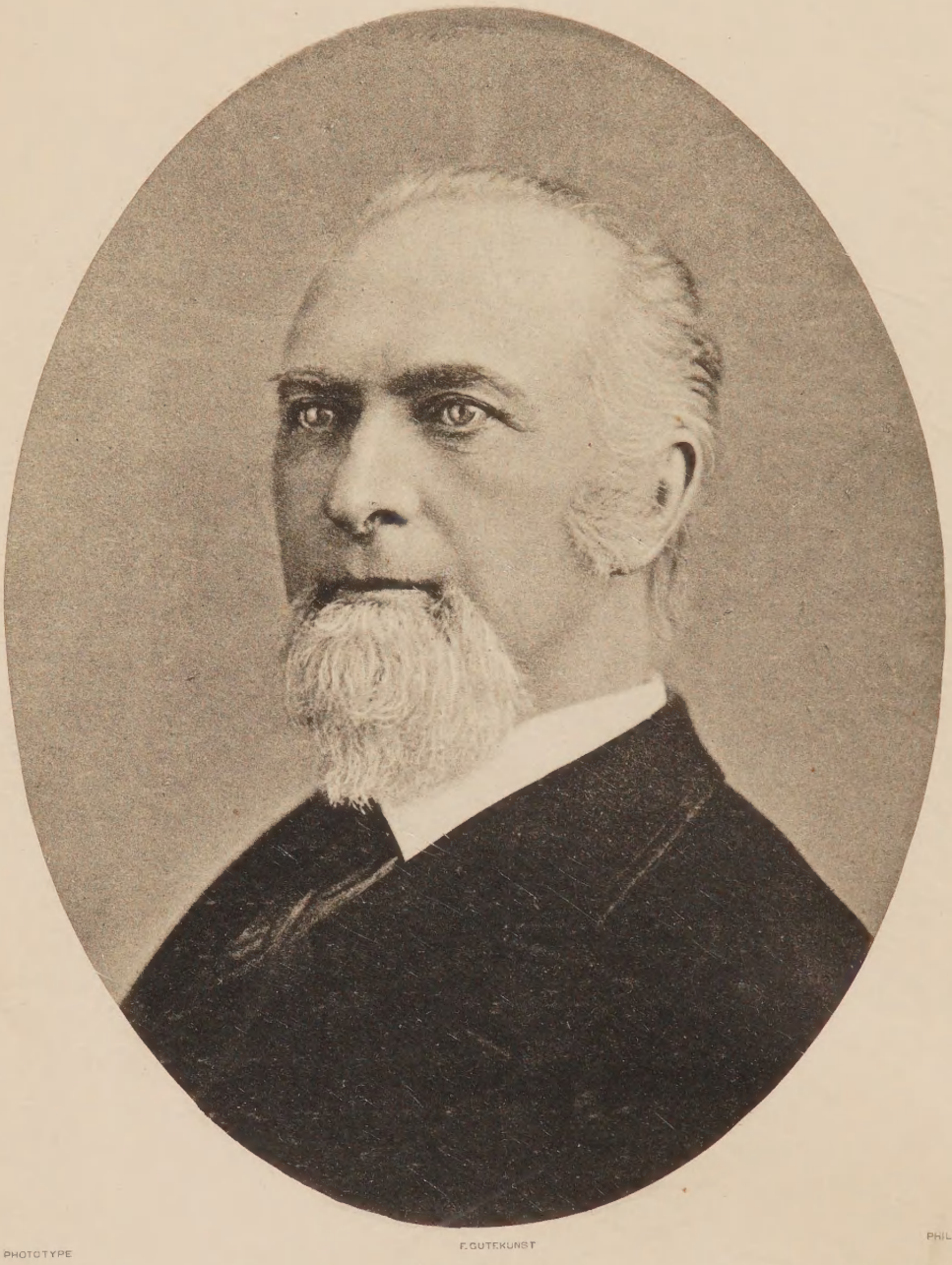

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Yours truly

W. A. Bench

MADNESS AND CRIME.*

By Clark Bell, Esq., President of the Medico-Legal Society.

The legal tests of responsibility of the insane, as applied under the English law, and in the American States, have given rise to grave discussion, which must interest and arouse every thoughtful legislator, in the inquiry now forced upon the public mind, which is intensified by the cases of Gouldstone and Cole in Great Britain, and of Guiteau, and similar cases here.

The medical profession may be said to substantially agree as a body, that in homicides by the insane, a knowledge of the character of the act committed, and of its being in violation of law, is not a safe and reliable test of the responsibility of the perpetrator. Indeed, medical men substantially concur that the insane, who are confessedly irresponsible for their acts, are, as a rule, able—not only to discriminate between right and wrong—but to comprehend, and know, that their act is in violation of law, and frequently understand its full nature and character and the legal consequences.

The legal profession has been trained to accept legal decisions, precedents, and the settled authorities, in a long line of cases, and to inquire and understand what the law really is, rather than to investigate its justice, its philosophy, or the reasons and principles upon which it is based.

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* Read before the Medico-Legal Society of New York, September 24, 1884.

The inquiry of the legal and judicial mind is, what is the *lex scripta;* and so far as the judiciary are concerned they are undoubtedly bound by it, and have no discretion but to enforce by their decisions its provisions, as settled by the courts, in the current of decisions.

Both professions, and the public, are now face to face with an acknowledged vice, in the existing laws of all English speaking countries, as to the true tests of legal responsibility in cases of insanity.

We should investigate this question with courage, without prejudice, and in the light which science has brought to the solution, of much that was misunderstood and unknown, when the judges gave their answers in the celebrated case of McNaughten, in 1843, to the questions propounded by the House of Lords after the acquittal of McNaughten.

That action, which has controlled the bench on both sides the Atlantic, since that era, should be examined now by the law-making power, to see if it rests upon sound principles, and it should be discussed outside of the environment of the judges of that age, who formulated the dogma, that knowledge of right and wrong, and ability to discriminate between right and wrong, with sufficient power of intellect to enable the accused to know and understand the nature and consequences of the act at law, was the true test of responsibility in such cases.

The most careful, conscientious, humane and discreet alienists, now tell us that the insane do know that the act is wrong, often fully understand its nature and consequences, and, as a rule, can discriminate between right and wrong, in acts, which they commit under the force of insane delusions, which they are not able to resist, and which affect and often,

times control their action, and they insist that these truths must be considered in determining criminal responsibility in all these cases.

The thoughtful men of the bar must acknowledge this to be a fact. They must concede that the rule of law, as interpreted by the English and American courts in many cases, is misleading and faulty, and that the whole subject demands the careful revision of the lawmakers, and that at an early day.

The case of Gouldstone, who was tried and convicted at the September Term of the Central Criminal Court of London, 1883, before Mr. Justice Day, for the murder of his five children, illustrates fully the state of the present law in Great Britain, and the need of a speedy change in legal procedure in such cases there.

That Gouldstone was insane can not be doubted, and that fact has been found since the conviction, upon a formal inquiry directed to be made by Sir William Harcourt, the English Home Secretary, by Dr. Orange and Dr. Clarke, eminent alienists, who reported him to be insane, upon which report he was reprieved by the government.

Gouldstone drowned three of the children in the cistern and broke the skulls of the remaining two with a hammer He said to his wife : "All the children are dead now. I shall be hung and you will be single." When the policeman arrested him, he said : "I have done it. Now I am happy and ready for the rope." On his way to the station he said to the officer: "I thought of buying a revolver to do it with, but altered my mind, as I thought it would make too much noise."

"I thought it was getting too hot with five kids within

three and-a-half years, and I thought it was time to put a stop to it."

Mr. Poland, for the Crown, claimed, and truthfully, that Gouldstone knew thoroughly well what he was about, that he was fully conscious at the time that he was committing a crime against the law of the land, that he knew the nature and quality of the act he was committing, and that it was a crime, and he claimed that Gouldstone was responsible under the law for the act.

The prisoner's father swore that the prisoner's mother was deranged, and had been for years; had attempted suicide twice; that about eight weeks before the trial she had threatened to take her own life; that her sister was also deranged; that William Gouldstone, his second cousin, died in a madhouse, and that his father's sister wore a strait jacket for some years.

Charles Gouldstone, cousin of prisoner's father, deposed that his son had been confined in a lunatic asylum sixteen months, since 1880.

Dr. Sunderland, who attended prisoner's mother and her sister, described the form of insanity under which both suffered as despondency, or melancholia.

Dr. Geo. H. Savage, an eminent English alienist, principal physician at Bethlem Hospital for the Insane, who had examined the prisoner, pronounced him of unsound mind at the time the act was committed.

Dr. Savage's evidence as to his conclusions, based upon the evidence of insanity on paternal and maternal side, was excluded by the court, holding that a doctor was entitled to give his medical evidence, but not to draw a conclusion, which was the province of the jury.

Dr. Savage swore that insanity, if proved on maternal side, created a tendency to insanity in the prisoner, which would be greatly increased if insanity was proved even in a remote degree on paternal side, citing the case of the last patient at Bethlem Hospital who died—a woman who had killed her whole family—Dr. Savage, on cross-examination, swore that he had examined the prisoner only about a quarter or half an hour; that the prisoner's conversation did not indicate insanity; that he could not certify him to be a lunatic from what he had seen; and that Gouldstone spoke rationally as to the crime and understood its penalty.

That when he had said he thought the prisoner of unsound mind he based his opinion upon his examination and from what he heard in court, that he thought the prisoner knew the penalty of what he was doing at the time, and that he had killed the children, knowing the penalty for so doing was death.

Judge Day charged the jury, "that the matter of law was for the court, and the jury were bound to take its instructions with regard to the law, in doing which they would be incurring no responsibility upon themselves."

"That as matter of law if the prisoner, at the time he killed the children, knew the nature and quality of the act he was committing, and knew that he was doing wrong, then he was guilty of wilful murder."

"That the only question for them to determine was whether the prisoner knew the nature and quality of the act he was committing, and whether he knew it was wrong and in violation of law."

The Judge, under the act of Parliament passed August, 1883, charged the jury: "That if they found the prisoner

was insane at the time he committed the act, they would have to return a special verdict that he committed the act, but was insane at the time."

"If on the other hand they found that he knew the nature and quality of the act when he killed his children, and that he was not of unsound mind, they must find him guilty, and the new act of Parliament would not affect their verdict.

The verdict was "guilty of wilful murder."

This case excited great interest in England. Dr. Savage, in response to public assaults, published the following cards.

To the Editor of *The Times:*

Sir,—I feel it my duty to write shortly about the case of William Gouldstone, the murderer of his five children. Justice demands further investigation of the case. The facts are plain. A young man of 26, who had been a well-behaved and industrious man, odd in some of his ways, is seized with fear of impending ruin to himself and family, and kills them to send them to heaven. The act is an insane one, and I think little more should have been needed to prove it to be such, but it was proved that his mother and aunt both suffered from precisely similar fears of ruin, and though the Judge ridiculed the importance of a second cousin on his father's side being insane, I would repeat emphatically that there being an insane taint which could have been shown to exist in several second cousins and others on the father's side, was of great importance. A great deal was made of my statement that I could not certify to his insanity from my personal interview of 15 to 30 minutes. It does not follow that the man may not have been insane at the time the act was committed.

There is the feeling abroad that a man if insane and irresponsible is always so, whereas the most insane people often are collected enough during the greater part of their lives The poor man Gouldstone is, to my mind, a typical case of insanity associated with insane parentage. He had done his work, which was purely mechanical, well, but he had no power to resist, and the act he perpetrated depended on an insane feeling of misery. I have no doubt he would have sooner or later developed delusions

The medical officer to the House of Detention told me he considered him to be suffering from melancholia.

I trust this prisoner will not be allowed to be hanged. I may say that I am not one who is in the habit of defending criminals on the plea of insanity.

I am, yours truly,

Geo. H. Savage, M.D.,

Physician Bethlem Hospital

September 15, 1883.

To the Editor of *The Daily Telegraph:*

Sir,—I feel bound to take notice of the letters written to you by "One of the Jury" in this case, as there seems to be great danger that the prisoner will suffer through misunderstanding of my opinion. The skillful cross-examination of Mr. Poland gave me no opportunity of representing my own opinion on the man's sanity. I was forced to own that in a short interview, from the facts seen by myself. I could not have signed a certificate of insanity. I doubt not but that if I had expressed a willingness to sign one that the haste of the proceeding would have been used as an argument against its value.

I did say, however, that, taking my examination with the history of the man and the crime, I had no doubt that he was of unsound mind. The Judge opposed strongly attempts to get my opinion, believing the common sense of a jury to be the best judge of sanity. This is all very well if the facts are explained by one understanding their value, and not otherwise. That the patient knew he had killed his children, and that he knew he might be hanged, I could not deny, but knowledge of this kind does not exclude insanity.

I have patients of the most insanely dangerous class here who have said the same things which Gouldstone said, and who know as much as he does. Yet they are mad. William Gouldstone ought not to suffer without a careful, independent investigation of his history and the history of his crime, one not confined to an examination of twenty minutes or half an hour.

I am, yours truly,

Geo. H. Savage.

Bethlem Hospital, Sept. 17.

The Foreman of the jury published a card in the *Daily Telegraph* in which he stated: "The judge presiding at the Gouldstone trial told us (the jury) that the law regarding insanity was this:

"That if a person was proved to be of sound mind up to the time of committing a certain deed; *if he knew the nature of that deed and the penalty it involved;* and if after this he still appeared of sound mind, we are bound, according to this law, to say such a person was not insane." The report of the trial I take from the *Times*, and it is doubtless more exact as to the charge of the judge than the statement of the foreman of the jury in his published card.

Mr. William Tallack, of the London Howard Association,

published a card in the *Times*, from which we make the following extract:

To the Editor of *The Times*:

* * * * * *

Sir,—There is one department of the law, that affecting homicidal crime, where a peculiar obscurity, or rather conflict, exists, at least in many instances; where the letter of the law, though plain, is in clear collision with the consensus of the best scientific medical observation also, and therefore with equity and justice. The case of the Walthamstow murderer, now under sentence of death, affords an illustration. It was unmistakable, from the evidence at the trial, and, indeed, from the prisoner's own admission, that he well knew the nature of the act he was committing. Hence, too, that act is, plainly and legally, "wilful murder." But, from the testimony of the physician of Bethlem Hospital and others, it is similarly obvious that, notwithstanding this, the condition of the man's mind was, to say the least of it, very abnormal and doubtful.

And in so far as this may be the case, it is appropriate to bear in mind the very important resolution unanimously adopted at the annual meeting of the Association of Medical Officers of Asylums and Hospitals for the Insane, held at the Royal College of Physicians, London, on July 14, 1864, as follows:—

"That so much of the legal test of the mental condition of an alleged criminal lunatic as renders him a responsible agent, because he knows the difference between right and wrong, is inconsistent with the fact, well-known to every member of this meeting, that the power of distinguishing between right and wrong exists very frequently among those who are undoubtedly insane and is often associated with dangerous and uncontrollable delusions."

Such a resolution as the above by such a body is a virtual condemnation of the law by the responsible official exponents of modern medical science. And this, taken in connection with a series of Home Office precedents for interposition, constitutes a valid reason for expecting the Home Secretary, in such a case as the present one, to seriously reconsider the sentence.

* * * * * *

Yours truly,

William Tallack.

Howard Association, London, Sept. 17.

Dr. N. Wood, St. Luke's Hospital, published a card in the *Times*, from which I make the following extract:

To the Editor of *The Times*:

* * * * * *

Sir,—In any other case than murder an irrational act is accepted as

ground at least for suspicion that the mind of the perpetrator is disordered; but in cases of murder no account is taken of the unreason of the act. The fact that a man of good character, under the influence of a cause, or causes, held to be utterly inadequate by persons of sound mind, suddenly commits an act inconsistent with all his previous history, is in any other event than the perpetration of murder regarded as a very serious symptom, arousing the most anxious fears on the part of his friends, especially if he has insane relations; but the law ignores all this, and asserts that a man is responsible for his actions if he knows the nature and quality of the act he commits, and that it is forbidden by law. This standard of responsibility is directly opposed to the established judgment of every person who has had any experience of the disordered mind. I sympathize with Dr. Savage as to his sense of duty as a recognized authority in such a matter, impelling him to make a public appeal for some further investigation of the circumstances. I agree with him that the act of William Gouldstone, taking into account the whole history, was an insane act, and none the less so because on every other subject his conduct and conversation was rational.

I am, Sir, your obedient servant,

W. Wood, M.D.,

Physician to St. Luke's Hospital.

No. 99 Harley street, Sept. 17.

Dr. Savage publishes in the January number, 1884, of the *Journal of Mental Science*, of which he is one of the editors, over his own name, a review of the case, from which I make the following quotations:

I would, then, sum up the case in this way. A man with strong direct inheritance of insanity is reduced by bad feeding, pain, and worry, to a condition of misery that was diseased. It was melancholia out of relation to its causes and its end. The whole thing was—as is general in mental disorder – a morbid development, not a devilish afflatus.

As to my examination in Court, I can only say that the skill of the prosecuting counsel and the ruling of the Judge made my opinion appear to be that the prisoner was responsible. I could only say "yes" when asked if the man knew he had killed—I objected to the term "murdered"—his children, and again I could only say "yes" when asked if he knew the punishment he had incurred. It would have been folly, as well as false, for me to have said otherwise.

But I distinctly added that I believed him to be insane at the time the act was committed. One most important point was made out of the fact that I said that I could not certify from facts observed by myself in my interview of from twenty minutes to half-an-hour.

I have been blamed for this, but I would defend myself by saying that

counsel strictly bound me down to answer simply and solely as to facts observed by myself. Some say that, as a physician, I was bound to take the history and the antecedent facts as part of the facts observed. This I must demur to, as in the signing of a certificate the facts observed by myself must be quite independent of information gained from others. I own this is often a foolish necessity of the law, but at present it exists. I did add that with the history and from the facts I believed him to be insane, but I was told by the Judge that this was not for me, but for the jury to decide. And the Judge's ruling quite outweighted my opinion.

Surely the jury have a right to be instructed by experts as well as by lawyers. Insanity and its various forms are not less difficult to understand than forms of law.

It would have been better that there should have been a contest of medical opinion, so that the jury should have heard the points for and against the insanity, rather than they should be wholly uninformed. It may seem strange that medical opinions should differ as they are seen to do in contested trials; but I for one do not see in this difference of opinion untruth or dishonor. Medical knowledge is not as yet finite, and there are at least two sides to a shield.

I would suggest that, in any criminal case in which the medical officer of the House of Detention states any doubt about the sanity of a prisoner, the trial should not take place till several months' observation have transpired; thus a great deal of heart-burning would be saved, and some lunatics would not be tried as criminals.

Lastly, as to the test of sanity.

I fear the want of any exact knowledge of the causes of insanity must for very long leave us without any definition of the condition.

The lawyer will say, "Let common sense decide who are responsible, and what is to be meant by responsibility."

I know the most important safeguards are needed by society, so that the weak should be kept from becoming wicked, but at the same time I must protest against persons being punished for what they cannot help.

First, I would do away with all definitions of responsibility, and let each case be tried on its own merits. For just as a man is sane or insane in relation to his past history and to his surroundings, and not according to any standard that can be set up, so a man is responsible or not for his acts, according as they are the natural outcome of his uncurbed passions or are due to diseased conditions.

I grant that harm has been done in several ways by the medical expert, in too often and too indiscriminately dragging in such rare explanations as insane impulses alone.

Again, insanity is generally looked upon as like other acute diseases, which can be as readily diagnosed as fevers or heart disease.

It will not be understood in its criminal relationship till it is looked upon merely as the morbid life-growth from the diseased germ. The whole life has tended to irregularity, and in many, direct insane inheritance must be admitted to play a chief part in its production.

The subject is unsatisfactory, as may at once be seen from the different ways it is viewed by the public.

The suicide is always considered to be insane.

The testator, again, is practically considered sane, but it may be shown that he was insane without incurring odium.

But if a criminal is defended as insane, his defender runs a great chance of being looked at as criminal also.

Finally, are we to be bound by any definitions in giving our opinion? I should say "No." We have got rid of "delusions" as a necessary part of insanity. It is now, moreover, admitted that a "knowledge of right and wrong" is not necessary, and the question of loss of self-control and impulses is so delicate a one as to make it dangerous for an expert to attach much weight to it in giving evidence.

I am free to admit the fault lies in great part in our defective knowledge, but is also partly due to the habits of the law in exacting definitions from medical witnesses.

We can no more define insanity than we can by definition give an impression of a rainbow or a landscape.

GEO. H. SAVAGE.

THE CASE OF JAMES COLE.—He was indicted for the murder of his own child, aged three years and eight months, in August, 1883. The trial was held in the Central Criminal Court of London, October 18th, 1883, before Mr. Justice Denman.

I give the following account of that trial, taken from the *Journal of Mental Science* for January, 1884:

James Cole, 37, laborer, was indicted for the wilful murder of Thomas Cole.

In August he was living with his wife at Croydon. Their two children, Richard, aged 14, and Thomas, three years eight months, also lived with them. Prisoner had been out of work for some time. On the evening of the 18th he took the child Thomas by the legs and knocked its head against the floor and walls. As the prisoner ran away he said to a man he met—"I have murdered my child."

It was elicited from the boy Richard that upon the night in question, the prisoner complained that his wife had hidden people under the floor and in the cupboard to try to poison him. He was jealous of his wife, but no ground for this suspicion appeared.

The plea of insanity was set up.

The surgeon and chief warder of Clerkenwell House of Detention gave evidence that the prisoner had displayed no symptoms of insanity, but had con-

ducted himself in accordance with the prison regulations. On one occasion he became violent, but it was stated that it did not arise from unsoundness of mind.

For the defense, a brother of the prisoner was examined, and stated that some members of the family had been subject to fits.

Dr. Jackson, an alderman of Croydon, said he was quite certain that he was a typical lunatic, with dangerous delusions. In cross-examination, witness said the prisoner seemed to understand the questions put to him, and gave perfectly rational answers. He told him that he thought he was being poisoned, that his wife had set men on to him, that he used to shriek out and wake up at night thinking that people were murdering him. The prisoner acknowledged that he drank occasionally, and that he had been many times in prison for violence. The prisoner said he found a little drink made him lose his senses. The prisoner knew perfectly well that he was on his trial for murder. When asked how he could have treated his child so cruelly, he made no answer. In re-examination, Dr. Jackson said he believed the prisoner was in such a state of mind that no parish doctor ought to allow him to be at large, as he was dangerous.

Mr. Geoghegan, in defence, argued that there had been no motive for the commission of the crime, but that there were strong antecedent probabilities that the prisoner was so unsound in his mind at the time that he did not know the nature and quality of the act he was committing.

Mr. Poland said that the prisoner's belief that attempts had been made to poison him would not be sufficient for any medical man to certify that he was insane, and thus necessitate his confinement in an asylum. It was for the jury to say whether the prisoner was a violent drunken man or an insane person fit for Broadmoor.

Mr. Justice Denman said it was an appalling case. As to the plea of insanity, the law as laid down by the House of Lords was, that every man was supposed to be responsible for his acts until the contrary was proved, and it must be shown that he was suffering from such a state of mental disease as not to know the nature and quality of the act he was committing, or that it was wrong. The Judge referred to the new Act regarding the treatment of persons alleged to be insane, and said that he observed that last session a learned colleague expressed dissatisfaction with the new enactment, in which, however, he was not inclined to disagree, the new Act not altering the law as to insanity as it previously stood, but only making a difference as to the formal verdict.

The jury found the prisoner *Guilty*.

The Judge, in sentencing the prisoner to death, said the learned counsel had attempted to make out that he was not responsible. The attempt had failed, and he must express his opinion that, according to the law of England, it had rightly failed. "Although it was, I think, established in evidence that you had been suffering from delusions, I cannot entertain a doubt that on the occasion on which you violently caused the death of your child,

you know you were doing wrong, and knew that you acted contrary to the law of this country, and that you did it under the influence of passion, which had got possession of your mind from want of sufficient control, the result being that the poor child came by a sudden and savage death."

The Home Secretary, SIR WM. HARCOURT, ordered a medical examination also in the case of Cole, and Dr. Orange and Dr. Glover, who conducted it, pronounced him unquestionably insane, and he was reprieved.

Dr. D. Hack Tuke, in a forcible criticism of both these cases of Gouldstone and Cole, in the January number of 1884 of the *Journal of Mental Science*, of which he is editor, says over his own name:

It would be difficult indeed to conceive any circumstances more calculated to bring English Criminal Law into contempt than the results of the trials of Gouldstone and Cole for wilful murder. Our only consolation is that such pitiful exhibitions of the working of our present judicial machinery, in cases in which the plea of insanity is set up, may lead to some practical reform therein. Had any commentary been desired on the necessity of carrying out the Resolution * passed at the recent Annual Meeting of our Association, under the presidency of Dr Orange, and again at the October meeting of the Metropolitan Branch of the British Medical Association, such commentary, written in letters of blood, has indeed been supplied by the occurrence of these two trials in rapid succession.

The great object of this Resolution is to secure a full and deliberate examination of the accused before, instead of after his trial, by competent medical men. In the cases of Gouldstone and Cole, the result to them, it is true, would have been the same, but with how much greater propriety, dignity, and economy! We should have been spared the spectacle of judges solemnly condemning to death, and clearly indicating it to be their opinion that it was a just death, men who were lunatics. * * * * Had

* "That prisoners suspected of being mentally deranged should be examined by competent medical men as soon after the commission of the crime with which they are charged as possible, and that the examination should be provided for by the Treasury, in a manner similar to that in which counsel for the prosecution is provided. It is suggested that the examiners should be the medical officer of the prison, the medical officer of the County Asylum or Hospital for the Insane in the neighborhood, and a medical practitioner of standing in the town where the prison is situated; that the three medical men shall, *after consulting together*, draw up a *joint* report, to be given to the prosecuting counsel, the cost being borne by the public purse, inasmuch as it is useless to tell an insane man that the burden of proving himself insane lies upon himself." (See Journal of Mental Science. Oct., 1883, p. 451).

the deliberate examination we urge been made in the case of Gouldstone, instead of one of some twenty minutes at the eleventh hour (the deed was committed at least five months before), the man's mental condition could have been carefully tested without haste ; and in the case of Cole, the same course would have exposed his insane condition for years previously, and all the facts bearing upon it would have been procured at leisure. Important in such a case, also, is the circumstance that his wife could not give evidence in court, while her intimate knowledge of his history would have been of the highest value to a medical commission. Again, the law requires a man in such instances to prove himself a lunatic ; but is not this a mockery of justice? How can a poor prisoner afford to pay? Counsel may, indeed, be assigned to defend the prisoner too poor to pay, but this is at the last moment, and what possible chance has he of doing justice to his client? None ; for it is then too late to make a skilled inquiry into and study of the facts of most value in the determination of the prisoner's insanity. The effect of this Resolution would be to prevent a repetition of circumstances that make the interference of the Home Secretary imperative ; for, we repeat, it cannot be other than prejudicial to the respect that we should always wish to see entertained for courts of law, to go on continually convicting and sentencing lunatics to the gallows, and then reprieving them—a game which may be all very well for cats and mice, but is scarcely worthy of being engaged in by those who uphold and those who break the law.

Nor are these trials less remarkable as commentaries upon the proper mode of understanding and interpreting the legal test of insanity to which, truth to say, we are almost weary of referring. As those who have read Mr. Justice Stephen's work on Criminal Law, reviewed in this Journal in July last, are well aware, he reads between the lines of the *dicta* of the Judges of 1843, and charms his psychological readers with the conclusion that the knowledge of right and wrong does not merely refer to the law of the land, but involves the question whether the accused was able to judge of the moral character of the act at the time he committed it, not merely in an abstract sense, but for himself, under the special circumstances of his own delusion or loss of control.

So liberal a construction of the test seemed to open the way to a sort of compromise between medical and legal opinions. Now, what from this point of view is so noteworthy, is that neither of the Judges who presided over these trials (Mr Justice Day and Mr. Justice Denman) appear to have had the faintest idea of such an interpretation of the terms. On the contrary, they obviously understood them in the baldest, most literal manner possible, but not otherwise, we are bound to say, than we supposed that they would understand them. Thus, Mr. Justice Denman, in addressing Cole, told him he could not doubt that he knew he was doing wrong. "You knew," he added, by way of explanation, "that you acted contrary to the law of this country." Whatever loss of control there might be was due to "passion." His lordship did not, with Sir James Stephen, say that any

one would fall within the description of not knowing he was doing wrong "who was deprived by disease affecting the mind of the power of passing a rational judgment *on the moral character* of the act which he meant to do" ("Criminal Law," vol. ii., p. 163). Nor did he tell the jury that the law when properly construed allows that "*a man who, by reason of mental disease, is prevented from controlling his own conduct, is not responsible for what he does*" (p. 167): nor yet that if a man's succession of insane thoughts is so rapid as to confuse him and render him unequal to the effort of calm sustained thought, "*he cannot be said to know, or have a capacity of knowing, that the act which he proposes to do is wrong*" (*Op. cit*). That such is, after all, the proper way of understanding the *dicta* of the Judges was equally foreign to the mind of Mr. Justice Day. The Judges succeeded also in conveying to the juries the impression that they must take the meaning of the terms in question in the sense in which they have been hitherto understood. All we have to say on this aspect of the matter is, that either official sanction must be given to the interpretation of Mr. Justice Stephen, or the words themselves must be so altered as to make their meaning plain to jurymen, and not only to them but to the Judges themselves. The difficulty, however, presents itself that, not only do most Judges lay down the law in the old-fashioned sense, but they do not conceal their sympathy with this interpretation, and they would regard it as a subterfuge were a medical witness to reply—"Yes," in the sense attached to the words by Sir James Stephen to the question—"Did the prisoner know that he was doing wrong?" In Gouldstone's case, for instance, Dr. Savage felt that to do so would be an evasion of the real meaning attached by the court to the expression, and unworthy of a scientific witness.

Another point to which one of these cases forcibly calls attention, is the neglect of the obvious symptoms of insanity in a man from whom homicidal acts might have at any time been expected. From what has transpired during and since his trial, we find that Cole was in good work up to 1877, and attentive to his wife and children; that then he fell out of work, left home to seek it, and was found by the police, who took him to the Croydon workhouse infirmary as a wandering lunatic. When his wife went to see him he looked ill and strange, and did not know her; he thought she was dead, and that he was there for killing her. Unfortunately, instead of being placed under proper medical treatment in an asylum, he was allowed to go home in a week's time, and frightened his wife by his mad actions, nailing down the windows, &c., and placing a large knife under his pillow. The insane suspicions which marked his case then have never left him, and the wife had to earn a living by caning chairs, which he would sometimes smash to pieces, the reason assigned being that she was electrifying him. At night he was sleepless, and would walk the room, hearing imaginary noises, and declaring that strange men were concealed in the house. A medical man saw him in 1879, and said he was dangerous, that everything must be kept out of his way, and that he couldn't understand why he had been allowed to go home from the workhouse instead of being

sent to an asylum. So he went on fancying when in the house that his wife was trying to poison him, and when out of it that people were watching him in the street, and even assaulting them on this ground. His wife expected that he would commit some violent act, and that she would probably be the victim, but she does not appear to have thought he would injure their child, of whom he was very fond. The poor woman applied to the magistrates, but they comforted her by telling her that they could do nothing till he had committed some act. They referred her, however, to the relieving officer, and in consequence the parish doctor examined Cole, and gave her a certificate on which he was removed to the infirmary. Here was a second opportunity for doing something, taking care of the lunatic, and averting a dreadful catastrophe. But in vain. He was sent out in two days as mad as ever, and his wife, in mortal fear, called in the doctor, and he attended him at home. Soon after the man killed his child. All the day he had been walking about the house with a hammer and chisel, following his wife, who eventually managed to take them from him and conceal them. The wife at last went for a policeman, and when at the gate heard a noise in the house which induced her to return, when she found he had done the deed for which he was tried, and which we maintain might and ought to have been prevented by placing him in an asylum long before. This is the moral of the story. We have no desire to ignore the fact that Cole was an intemperate man. But we are satisfied that he was a sober man up to the time that he became insane in 1877, and that his giving way to drink was one of the symptoms of his madness, although doubtless a further aggravation of it. But while it may be impossible to gauge with precision his moral responsibility in relation to the intensity and continuance of his mental disorder, proof is not wanting that he had been sober for at least a week before the fatal act was committed. In a word, this was not the result of drink, but the outcome of a long, lasting state of delusional insanity. Had he joined the Blue Ribbon Army for months before, his delusions and their logical development in violence would have been the same. Add to this, that in consequence of his inability to earn a livelihood through his mental infirmity, he was wretchedly poor, and his brain was consequently ill-nourished, and rendered more and more a prey to suspicion.

The conclusion, then, to which we earnestly draw attention, in the interests alike of the law, of life, and of the lunatic, is the necessity of reforming the mode of Legal Procedure in ascertaining the Mental Condition of Prisoners

D. Hack Tuke.

The Case of Guiteau.—We are far enough removed from the excitement of that awful tragedy, which resulted in the death of the President of the United States, to agree (now that he has been executed and the post-mortem examination of his brain has been made and submitted to the scientific

world, imperfect as that examination was, when it could have been made most thorough in every respect and in minutest detail), that there at least existed a question as to his sanity and responsibility which should have been submitted to the most critical medical examination and tests in the power of our government to have made, by the best medical men in this country, outside and independent of the trial itself.

Provisions are made under the law of this State for examination into the mental condition of any person charged with crime, before the trial, or even after the indictment, which, if it results in finding the accused insane, avoids the necessity of a trial upon the indictment when found.

The code of criminal procedure of New York also provides for a proceeding to examine cases where insanity is alleged to have occured after conviction, as follows:

SEC. 496. If after a defendant has been sentenced to the punishment of death, there is reasonable ground to believe that he has become insane, the Sheriff of the county in which the conviction took place, with the concurrence of a Justice of the Supreme Court or the County Judge of the county, who may make an order to that effect, must impanel a jury of twelve persons of that county qualified to serve as jurors in a court of record to examine the question of the sanity of the defendant.

The Sheriff must give at least seven days' notice of the time and place of the meeting of the jury to the District Attorney of the county. § 108 of the code of civil procedure regulates the impaneling of such a jury and the proceedings, upon the inquisition, so far as it is applicable.

§ 497. District Attorney must attend and may produce witnesses by subpœna.

§ 498. The inquisition must be signed by jurors or sheriff. If it is found by the inquisition that the defendant is insane, the Sheriff must suspend execution of the warrant until he receives the warrant of the Governor directing that the defendant be executed.

§ 499. The Sheriff must transmit inquisition to Governor, who, as soon as defendant is restored to sanity, must issue a warrant for execution, pursuant to sentence, unless commuted or pardoned, and may meanwhile dispose of defendant. (Code Criminal Procedure, title x., chap. 1.)

If such a provision exists in the District of Columbia, where the homicide occurred, it was a remarkable fact that it was not invoked by either the counsel for the people or the prisoner; nor was such a suggestion acted upon by the Government after the conviction and sentence, although pressed by some of the leading alienists of the country, as well as by citizens of every class throughout the land, as due to the self-respect of the Government and people.

The next generation will be unable to understand why such an examination was not held, nor be able to appreciate the peculiarly delicate relation of the executive and his legal advisers to that trial, nor the almost universal clamor for the execution of Guiteau, which made such an inquisition apparently impracticable, if not practically impossible, at that time.

The charge of the judge in the case of Guiteau fairly stated the law, not quite as strong and broad as the English judges in the cases of Gouldstone and Cole, but substantially within the recognized rule, as it is now laid down in most of the American States.

No one can pretend for one moment to deny, that Guiteau fully understood the nature and quality of his act; nor that he was able to discriminate between right and wrong in regard thereto, and that he fully understood that it was a crime at law, and well knew the penalty which the law imposed.

If the legal test established by the English judges in 1843, or as laid down by Judges Day and Denman in cases of Gouldstone and Cole were to apply, the jury in Guiteau's case must, of course, convict.

In no case of insanity of the character of melancholia or

with suicidal tendencies, where the disease is not readily detected, nor in any case of obscure character, is it possible ever to claim that the insane prisoner does not both know and fully understand that the act is wrong as human standards are measured, and it must generally be conceded that he also well understands the nature and quality of the act and its penalty under the law.

How far is this a reliable test of responsibility? Have we not come now to the point where the legal gentlemen can unite with medical men, and call a halt upon the justice or propriety of this remaining longer the law of such cases?

Dr. Hack Tuke quotes that eminent name, Sir James Fitz-James Stephens, in his recent masterly work on criminal law; in which he speaks both as a jurist and as a student and expounder of the principles of English law.

Sir James has recently been called to the English bench. As a judge he must administer the law as he finds it. He must sustain the current and continue in the line of the English decisions. A judge is not a law-maker. He is an expounder and interpreter of the law, and Sir James is far more valuable as an author and writer in his admirable treatise, than he is as a Judge in his judicial decisions. Sir James treats of this interesting subject in Vol. 2, Chapter XIX., entitled "Relation of Madness to Crime," and his views are well worthy our serious consideration, from what has been called the legal position involved in this discussion.

The learned writer gives a digest of the English law as to insanity from his standpoint as follows:

No act is a crime if the person who does it is at the time when it is done, prevented [either by defective mental power or] by any disease affecting his mind—

(*a*) From knowing the nature and quality of his act, or

(*b*) From knowing that the act is wrong [or

(*c*) From controlling his own conduct, unless the absence of the power of control has been produced by his own default].

But an act may be a crime although the mind of the person who does it is affected by disease, if such disease does not, in fact, produce upon his mind one or other of the effects above-mentioned in reference to that act.

He comments upon the answers of the Judges in the McNaughten case, and holds that their authority is questionable, though he has followed them as a Judge, and concedes "*that when they are carefully considered they leave untouched the most difficult questions connected with the subject, and lay down propositions liable to be misunderstood;*" but he claims that they should be construed "*in a way that would satisfactorily dispose of all cases whatever.*"

He reduces the doubtful points to the single question "*Is madness to be regarded solely as a case of innocent ignorance or mistake, or is it also to be regarded as a disease, which may affect the emotions and the will in such a manner that the sufferer ought not to be punished for the acts which it causes him to do?*"

Again, Sir James claims that, yielding the point that the answers of Judges must be accepted, though of doubtful authority, "*the law allows that a man who by reason of mental disease is prevented from controlling his own conduct, is not responsible for what he does.*"

I have not space within the limits of such a paper to give this chapter, which is worthy of reprint, entire, but I give a few extracts which I regard very important in the pending discussion:

The position of Sir James Fitz-James Stephens may be defined or stated as follows:

The different legal authorities upon the subject have been right in holding that the mere existence of madness ought not to give excuse for crime, unless it produces, in fact, one or the other of certain consequences.

I also think that the principle which they have laid down will be found, when properly understood, to cover any case which ought to be covered by it.

But the terms in which it is expressed are too narrow, when taken in their most obvious and literal sense, and when the circumstances under which the principle was laid down are forgotten. Vol. 2, chapter xix., p. 125.

He says, p. 130 :—"What are sanity and insanity ?"

The answer is that sanity exists when the brain and the nervous system are in such a condition that the mental functions of feeling and emotion and willing can be performed in their regular and usual manner. Insanity means a state in which one or more of the above-named mental functions is performed in an abnormal manner, or not performed at all, by reason of some disease of the brain or nervous system.

In commenting on the answers of the Judges in the McNaughton case, says :

I am of the opinion that even if the answers given by the Judges in McNaughton's case are regarded as a binding declaration of the law of England ; that law as it stands is, that a man, who by reason of mental disease, is prevented from controlling his own conduct, is not responsible for what he does.

I also think that the existence of any insane delusion, impulse or other state which is commonly produced by madness, is a fact relevant to the question, whether or not he can control his conduct, and as such may be proved, and ought to be left to the jury, p. 169.

He continues :

The proposition, then, which I have to maintain and explain is that, if it is not, it ought to be the law of England that no act is a crime if the person who does it is, at the time when it is done, prevented, either by defective mental power, or by any disease affecting his mind, from controlling his own conduct, unless the absence of the power to control has been produced by his own default. * * * * * * *

No doubt there are cases in which madness interferes with the power of self-control, and so leaves the sufferer at the mercy of any temptation to which he may be exposed ; and if this can be shown to be the case, I think the sufferer ought to be excused (p. 168–70).

The difficulty is in properly defining the words "know" and "wrong." No narrow or forced construction should be given these words, but the wide and broad signification, which Sir James puts as follows :

Knowledge and power are the constituent elements of all voluntary action, and if either is seriously impaired the other is disabled. It is as true that a man who cannot control himself does not know the nature of his acts, as that a man who does not know the nature of his acts is incapable of self-control (p. 171).

Regarding the matter as one for the Legislature, I do not think that it is expedient a person unable to control his conduct should be the subject of legal punishment.

The fear of punishment can never prevent a man from contracting disease of the brain or prevent that disease from weakening his power of controlling his own action in the sense explained ; and whatever the law may declare, I suppose it will not be doubted that a man whose power of controlling his conduct is destroyed by disease, would not be regarded as morally blamable for his acts (p. 171).

Sir James justifies the punishment of madmen in certain cases—

Little or no loss is inflicted on either the madman himself or on the community by his execution.

It is indeed more difficult to say why a dangerous and incurable madman should not be painlessly put to death, as a measure of humanity, than to show why a man who being both mad and wicked, deliberately commits a crime as murder, should be executed as a murderer (p. 178).

I may observe that the principle that madmen ought, in some cases, to be punished, is proved by the practice of lunatic asylums (p. 181), and cites Dr. Maudsley (see Responsibility, p. 129).

I cite further :

The question, " What are the mental elements of responsibility ?" is and must be a legal question. I believe that by the existing law of England these elements (so far as madness is concerned), are knowledge that an act is wrong and power to abstain from doing it ; and I think it is the province of Judges to declare and explain this to the jury.

I think it is the province of medical men to state, for the information of the court, such facts as experience has taught them, bearing upon the question, whether any form of madness affects, and in what manner, and to what extent it affects either of these elements of responsibility, and I see no reason why under the law as it stands, this division of labor should not be carried out (p. 183).

In 1874 Mr. Russell Gurny's bill, introduced before the English Parliament, proposing amendments of the law relating to homicide, contained a clause recognizing the loss

of self-control, the result of disease, as one of the causes of exemption from responsibility in these cases—and while the bill did not become a law it led to the appointment of a committee before whom Sir James Stephens was called to testify, who claimed that the law should plainly state and define responsibility, and provide exactly where it rested and where it did not.

This evidence of Sir James created a great sensation, and the committee took the evidence of the Lord Chief Justice (Cockburn) which in the light of this discussion I may be pardoned for quoting.

He said :

As the law, as expounded by the Judges in the House of Lords, now stands, it is only when mental disease produces incapacity to distinguish between right and wrong, that immunity from the penal consequences of crime is admitted. The present bill introduces a new element, the absence of the power of self-control.

I concur most cordially in the proposed alteration of the law, having been always strongly of opinion that, as the pathology of insanity abundantly establishes, there are forms of mental disease in which, though the patient is quite aware he is about to do wrong, the will becomes overpowered by the force of irresistible impulse ; the power of self-control when destroyed or suspended by mental disease becomes, I think, an essential element of (ir) responsibility.

Sir James Stephen proposes that a jury should be allowed to return three verdicts—(1) Guilty ; (2) Guilty, but the power of his self-control was diminished by insanity ; (3) Not Guilty, on the ground of insanity.

This proposal, while a decided step forward, is liable to objections, which are most forcibly presented by Dr. Hack Tuke in his review of Sir James' book. (*Journal of Mental Science,* July, 1883, pp. 267, 268.)

Dr. John C. Bucknill, in his admirable review of Sir James' book, criticises Sir James' definition of insanity as follows (MEDICO-LEGAL JOURNAL, Vol. 2, p 190) :

But this is a medical definition, covering the slightest deviation from

mental health arising from hysteria or alcohol, from bile or gout. It includes states of feeling as sensation, which may not affect the mind. It includes abeyance of mental functions, which is not insanity; for, when the mental functions are not performed at all, there is no insanity.

It is clear from the context that this definition of insanity would include more than Mr. Justice Stephen could allow to be irresponsible; and no good is gained by thus analysing the mind, and detailing the results of the analysis, more or less complete, as functions which may be separately affected. I shall myself venture to make one more medico-legal definition of insanity. *Insanity is incapacitating weakness or derangement of mind caused by disease.* It seems to me to be practically useful and scientifically accurate to make a distinction between weakness and derangement of mind. It seems to me also that all insanity which is not weakness will fairly come under the head of derangement in its widest sense; for morbid states of the emotions derange the play of mind. But the all important term in the definition is, of course, the attribute which points to the want of power to do something. In criminal inquiries, it means incapability of abstaining from the criminal act. It means that condition of irresponsibility pointed to by Lord Bramwell in Dove's trial—Could he help it? It means that which has been much insisted upon by medical writers and great legal authorities, the loss of self-control. Lord Chief Justice Cockburn and Justice Stephen have both expressed the strongest opinion that this state of mind caused by insanity ought to remove responsibility.

And I am also inclined to agree with Dr. Bucknill that, notwithstanding the written views of both Sir James and Chief Justice Cockburn, the law of England to-day as administered is as laid down by the Judges in the McNaughten case, although quite agreeing with Sir James that its strict enforcement would lead to monstrous consequences in many instances.

THE PROVISIONS OF THE NEW YORK PENAL CODE lay down the law as follows:

SEC. 17. A person is presumed to be responsible for his acts. The burden of proving that he is irresponsible is upon the accused person, except as otherwise presented in this code.

SEC. 20. An act done by a person who is an idiot, imbecile, lunatic, insane or of unsound mind, is not a crime.

A person cannot be tried, sentenced to any punishment, or punished for any crime while he is in a state of idiocy, imbecility, insanity or lunacy, so as to be incapable of understanding the proceedings or making his defense.

SEC. 21. A person is not excused from criminal liability, as an idiot, imbecile, lunatic or insane person, or of unsound mind, except upon proof that at the time of committing the alleged criminal act he was laboring under such a defect of reason, as either.

1. Not to know the nature of the quality of the act he was doing ; or,
2. Not to know that the act was wrong.

SEC. 22. No act committed by a person, while in a state of voluntary intoxication, shall be deemed less criminal by reason of his having been in such condition. But wherever the actual existence of any particular purpose, motive, or intent, is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time in determining the purpose, motive, or intent, with which he committed the act.

SEC. 23. A morbid propensity to commit prohibited acts, existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor.

SEC. 3343, Chap. xxii. of Code of Civil Procedure, (Subdivison 15) defines lunacy as follows : "The words 'lunacy' and 'lunatic' embrace every description of unsoundness of mind, except 'idiocy.'"

These two Sections, 20 and 21, must be construed together, as in some respects they apparently conflict.

The first part of Section 20 leaves lunacy undecided and undefined. The latter part would seem to define it to apply to the accused when in a state so as to be incapable of understanding the proceeding or making his defense; but Section 21 is a re-statement of the rule in the McNaughten case :

"Laboring under such a defect of reason as either not to know the nature or the quality of the act he was doing, or not to know that the act was wrong."

It is a source of profound regret that Mr. David Dudley Field and his confreres in framing and submitting the Penal Code did not meet this issue, rather than to have re-stated their view of the existing English law.

The time has come when legislators must face this question upon its merits. The able and masterly manner in which Sir James discusses the question, the decisions in

many of the American States recognizing a different test for responsibility, call for a settled law both in England and America, which would be in accord with the principles of justice and commensurate with the civilization of our age.

I think legislators, as well as judges, who administer the law in both countries, must feel that the time has come to carefully consider this question, and to state the law of responsibility in this class of cases so clearly, as to remove the very just criticisms everywhere made upon the dicta of some of the judges.

There is no doubt whatever that the uncertainty of verdicts, is largely due to the popular conviction of the injustice of the law as it now exists, and as it is frequently construed by the courts.

I am not unconscious of the fact that some judges have decided against what may be called the views of the English judges in McNaughton case, as notably Judge Ladd, of New Hampshire, in the case of Jones (State *vs.* Jones, N. H., 388); Beardsly in People *vs.* Freeman (H. Denio, 27), and Judge Brewster of the Phila Common Pleas in 1868, who held that the true test lies in the word "power."

"Has the defendant in a criminal case the power to distinguish right from wrong and the power to adhere to the right and avoid the wrong?" (Wharton and Stille, § 159).

Shaw, C. J, in Commonwealth *vs.* Rogers (Bennett and Heard, leading criminal cases, 2 Ed., pp. 96–97.)

Robertson, J., in the Kentucky Court of Appeals (Wharton and Stille, § 175). There is a judicial tendency in many of our States, to hold an accused irresponsible who acts under an uncontrollable impulse based upon an insane delusion, even though he fully understands the nature

and consequences of his act, and can discriminate between right and wrong, but the rule in this country and surely in England, is greatly affected and controlled by the action of the English judges in 1843.

By far the ablest assault upon the existing law from the legal side is that of the learned Sir James Stephens.

The admirable paper of Dr. John Charles Bucknill, read before this Society and appearing in the September number of the MEDICO-LEGAL JOURNAL, is a masterly presentation of the subject.

It is a legislative and not a judicial question, and must receive public attention commensurate with its great importance in the administration of criminal jurisprudence.

THE AUTHORITY OF SUPERINTENDENTS OF INSANE ASYLUMS.*

By L. A. Tourtellot, M.D., Utica, N. Y.

The authority conferred upon the medical superintendents of asylums, with that claimed and exercised by them as experts in insanity, has made these officials more absolute and irresponsible than any others, in either our civil or military service. This unfortunate result of the faulty organization of American asylums, half a century ago, was not at first apparent. It was impossible, however, that under an executive wholly without check, and armed with the authority of an expert responsible only *in foro conscientiæ*, the administration of asylums should not quickly degenerate. The most tangible abuses which have followed are the neglect and mal-treatment of the insane, to which in all countries the tendency is so great. But another abuse hardly less important is the unjust and unnecessary confinement of the partially insane in asylums. These patients are such as a court and jury would pronounce sane, and entitled to liberty and the control of their affairs. Upon the "expert" judgment of an asylum superintendent, which it is not possible to submit to any formal or scientific test, and which can hardly fail to be warped by self-interest, they are confined indefinitely in the company of the insane, and subjected to

* Read before the Medico-Legal Society of New York, June 11, 1884.

the tyranny of brutal attendants. The case of Mr. J. B. Silkman is a fair illustration. Even those who allege the partial insanity of this unfortunate gentleman, much more those who regard him as entirely sane, must confess that to confine him as a lunatic was a gross outrage upon his rights as a citizen. What combination of ignorance, recklessness, timidity and animosity formed the motive of his committal to the asylum, need not be inquired here. The fact that he was pronounced a case of incurable insanity by Dr. Gray, and treated as one wholly without rights, in the manner he has described, is beyond question. We may be sure, also, that there are many others of the same class in our asylums, who have not had his courage or persistency, or the good fortune to find a Judge Barnard to put aside the imposture of expert infallibility, and bring the fact of insanity to its true test, that of common sense and the common law.

A case showing, at least, that the ability to comprehend the principles acted upon by Judge Barnard is not always found in the Supreme Court of this State, is that of "Richard Beckwith, a lunatic," in which an opinion was entered by Judge Mullin, of the Fourth Judicial Department, under date of February 25, 1875. Proceedings were begun in May, 1871, by George C. Carter, a lawyer residing in Utica, N. Y., for the release of Beckwith from the Utica Asylum, and were ended by a decision in his favor in May, 1884. But the early stages of this long contest were marked by the severe discomfiture of the plaintiff, upon the principle of the complete authority of asylum superintendents in the matter of patients committed to their charge. In the opinion referred to, Judge Mullin recognizes, to the fullest extent,

the infallibility and impeccability of Dr. Gray in deciding the question of insanity in a patient under his care, and denounces Carter in unmeasured terms for instituting proceedings for the release. A brief history of the case is as follows:

Richard Beckwith, aged 51, a farmer, residing in Jefferson County, N. Y., was admitted to the State Lunatic Asylum in September, 1843, and discharged in May, 1845. In December, 1845, he was again admitted, and was again discharged in May, 1848. He was admitted a third time in December, 1850, and discharged in March, 1851. In May, 1854, he was for the fourth time admitted, and was only discharged by death at the age of 83, in January, 1875. One year after the last admission of Beckwith to the asylum, his son swore to a petition, reciting the main facts in the case, and praying that a commission in the nature of a writ *de lunatico inquirendo* be issued. This petition was supported by the affidavits of Dr. Gray and one of the assistant physicians of the asylum. The writ was issued, and the son duly appointed committee of his father's person and estate.

In regard to the mental condition of the patient, which was afterward brought in question, it appears that from 1865 to 1871 he was permitted at all times to leave the asylum building and grounds at will, and without attendance. Under this permission he attended church and other public assemblies in Utica, visited his friends and took meals with them, returning at night to the asylum. To these friends he complained bitterly of his detention, and declared himself perfectly sane; but said he was brought to the asylum by due process of law, and would stay until released in a like manner. Among those upon whom he often called in

Utica, was Geo. C. Carter, the plaintiff, who had lived near him when a boy, and knew him personally and his affairs. During this period, from 1865 to 1871, Beckwith appeared to Carter, as to all his other acquaintances who were called to testify, to be of sound mind. To them there was nothing in his looks, manner or conversation to indicate insanity. To the asylum physicians, who knew how to draw out his delusions, he would talk of his great wealth and power, of revelations from the Almighty, and of his wonderful visions. His false ideas were, however, rather fanciful than real to him. They were never obtruded or insisted upon, and gave rise to no insane actions. He was quiet in manner, neat in his habits, and mild in temper. Finally, after much persuasion by Beckwith for several years, Carter began proceedings to supersede the commission and discharge him from the asylum. This was done after due inquiry into the facts among his former neighbors in Jefferson County, and consultation with his friends in Utica and vicinity. All were of the opinion that he was competent to take care of himself, and advised the proceedings.

Accordingly, in February, 1871, Carter prepared a petition, which was duly verified by him and supported by affidavits. In March, the application was heard at a special term of the Supreme Court, held at Watertown, N. Y. At this hearing the committee read in opposition the affidavits of Dr. Gray and his assistant physicians, tending to show that said Beckwith had not recovered his sanity. The result was an order of the court referring the matter to Hon. O. S. Williams, of Clinton, N. Y. Preparatory to the hearing on this reference, Mr. Carter employed Dr. Wm. A. Hammond, of New York, to examine Beckwith and testify. Dr.

Hammond went to Utica, and, in company with Mr. Carter, to the State Asylum, for the purpose of making such examination, but was refused permission to see the patient. Mr. Carter was informed by Dr. Gray, at this time, that Beckwith was insane, and that he could have learned as much before if he had inquired of the proper authority. Carter had anticipated that Dr. Gray would assume such an attitude toward this inquiry, knowing that the financial care of the asylum was left to him, and that he would naturally desire to retain a quiet, private patient, upon whose keeping a considerable profit was made. He had not, therefore, consulted any one connected with the asylum in the matter, but had acted upon his own belief and that of every friend of Beckwith outside the asylum, that the latter was at least so far sane as to be entitled to his liberty and the care of his estate. In May, 1871, he served upon the attorney for the committee the affidavits of himself and others as to Beckwith's mental condition, with notice of a motion asking his removal from the asylum to a private family pending the investigation, and that a limited number of physicians skilled in the treatment of insanity should be employed to visit and examine him. On the 16th of May, the motion was heard at a special term of the Supreme Court held at Lowville, N. Y., Justice H. A. Foster presiding, and it was ordered that Drs. M. M. Bagg, A. Churchill and L. A. Tourtellot be employed on the part of Beckwith, to visit and examine him; and also that Dr. Gray should, at any and all proper times, permit his attorney and the physicians named to visit and converse with him.

In August following the referee made a report, in which he found that Beckwith, "for the most part, was quiet and

harmless, though not invariably so. On many subjects he converses naturally and sensibly, but is subject to a multitude of delusions, so varied in their form and character that it would not be judicious or safe to discharge his committee and leave to him the absolute control of his person and property." He advises, however, the trial of "a change in his location and surroundings, as it cannot be expensive and would not be dangerous." On the 24th August, at a special term of the court, the report of the referee was confirmed, and the application to supersede the commission denied.

Richard Beckwith died at the asylum in January, 1875, and Wm. W. Beckwith, his committee, who had long been of doubtful sanity, died in the same institution in the following year. From this time the legal contest was for the payment of Carter's services as Beckwith's attorney, and for his vindication from the assault upon his personal and professional character, contained in Justice Mullin's opinion already referred to. This contest of thirteen years' duration, fought through all its stages by Dr. Gray, in defence of his infallibility as an expert and his authority as an asylum superintendent, was ended in favor of Carter by a decision of Hon. M. M. Waters, of Syracuse, N. Y., as referee, published in May, 1884, from which the following is quoted, in conclusion :

"Were the proceedings honest and fair? The law requires of the attorney reasonable skill in the management of his client's cause, entire fidelity to his client, and the utmost freedom from imposition upon the court.

"It is not claimed that the plaintiff lacked any skill in the management of his client's cause, or any fidelity to his interests, if the proceedings were proper; but he is charged with

knowingly undertaking a cause which he knew to be hopeless, and with misleading the court with false affidavits. I am not able to find any evidence that the affidavits were false in fact, much less that the plaintiff knew them to be false. Neither can I say from the evidence that the plaintiff knew that his client was not capable of the government of himself and the management of his affairs.

"It is claimed that the family of Beckwith and the superintendent of the asylum knew Beckwith's condition, and could have informed the plaintiff whether it was wise or safe to set him at liberty; and therefore that the plaintiff was guilty of bad faith because he did not consult them. But it must be remembered that these persons were acting in hostility to the wish and claim of Beckwith to be set at liberty; and besides, the nature of the facts was such that they could not know Beckwith was not capable of the government of himself and the management of his affairs. Whether he was or was not capable was a mere matter of opinion, based alone upon inferences drawn from the statements of Beckwith as to his delusions. All agree that his insanity was limited to mild delusion as to his own personal power.

"Plaintiff certainly knew, or ought to have known, the fact that in 1855 Beckwith had been declared incapable, and that he did in fact suffer from delusions. Did he know that those delusions incapacitated him? Whether they were controlling to the extent of depriving him of the power of governing himself, &c., is one question; whether the plaintiff knew this fact is another. It is evident from the nature of the question that the plaintiff did not know the delusions were controlling, because it was necessarily a matter of opinion, based upon no acts of the lunatic whereby he ever did in fact mismanage his property or misgovern himself, and even the experts sworn upon the trial do not agree as to the controlling nature of the delusions in his case.

"His treatment at the asylum and his conduct under that treatment actually demonstrate that, to a certain extent, he

was capable of governing himself ; and as no test was ever made wherein he actually failed, either in self-government or in the management of his property, in or about the year 1871, it would hardly be just to plaintiff to decide, solely upon the evidence of the finding of the jury in 1855, that he was in fact incapable, to the plaintiff's knowledge, at the time of the commencement of these proceedings. Indeed there is nothing but conjecture in the evidence upon which to base the finding that plaintiff knew Beckwith's incapacity.

" But it is said the plaintiff knew that it was the opinion of the superintendent of the asylum, and of Beckwith's family, that he was incapable. Suppose this were so. If the plaintiff believed that his client was not incapable he owed no obedience to those opinions. They were the persons upon whose affidavits and opinions the proceedings had been taken by virtue of which his client was declared incapable. They were acting in hostility to his client, this family were enjoying the property of his client, and the superintendent is within the principle of the following extract: ' Every superintendent of a hospital desires the wards to be full, and where the inmates are pay-patients, there exists a temptation to detain them.'* If the opinions of the superintendent are to control the profession and prevent interference in behalf of persons imprisoned as insane, then indeed ' he has a despotic power over the liberty of at least all who have been committed, in proper form, to his hospital, even so far as to justify the detention of a sane man throughout his whole life, without responsibility for the enormous wrong.' † It would, therefore, be unjust to find the plaintiff guilty of bad faith in the proceeding merely because he omitted to consult these persons, or refused to be controlled by their opinions.

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* Harrison's Legislation on Insanity, p. 4.

† Harrison's Legislation on Insanity, p. 4.

"Assume first that the attorney was wrong in his opinion, and, secondly, that he knew from the beginning that he was wrong, and intentionally deceived the court, and misled the court and his client, then he deserved all the punishment and malediction set down in the opinion of the General Term, at page 447 of the third volume of Hun's Reports. But assume that he was right, or may have been right, or even that his client's belief, so long and persistently urged by Mr. Beckwith, that he was unjustly detained, was well-founded, or even that there was so much doubt upon that point as to make it a proper subject for judicial investigation; then such maledictions become not simply unjust to the attorney, but a rule is thereby adopted which, to be sure, protects the property of idiots, infants, and insane persons from the danger of being charged with improper attorney's bills, but it also protects greedy relatives and unscrupulous keepers of asylums, if any such there be, against investigation in cases of unjust detention of sane persons on the pretence of insanity; and thus the liberty of the citizen is sacrificed to the desire of protecting a small share of property.

"It seems to be better to leave the protection of the property of lunatics, &c., to the laws, and in civil cases to adhere to the well-settled rule that requires the facts to be found from the evidence, and not from conjecture, and the law to be deduced from the facts proved and found, in each case by itself.

"I cannot find in the evidence in this case anything which proves the plaintiff to have been guilty of bad faith, nor can I say that his course was not even commendable."

CASE OF POISONING (SUICIDAL) WITH STRYCHNINE.*

By W. Thornton Parker, M.D., Act. Ass't. Surgeon, U. S. A.

Private O. L., Co. H., 24th Reg't., U. S. Infantry, colored, 23 years of age, single, was first noticed by companion about 10.30 A. M., on January 25th, 1883, to be eating a white powder which he took from a small bottle, and upon being asked what he was eating, replied that it was quinine. He invited his companion to take a drink with him, and at the bar attempted to drink a glass of whiskey into which he had been seen to empty the remaining contents of the bottle of strychnine. The bar-tender seized the glass and threw away the contents before the soldier could prevent him. It appears that the evening previous he had endeavored to procure a rifle from the rack, but was prevented from doing so by the seargant in charge. Soon after leaving the bar-room he was found violently struggling with two or three soldiers who were endeavoring to bring him to the Post Hospital. He had been drinking a good deal since noon of the preceding day, and was apparently under the influence of liquor, besides exhibiting marked signs of poisoning by strychnine.

Mustard and warm water was administered to him on the

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* Read before the Medico-Legal Society of New York, September 24, 1884.

spot, and he was placed in a cart, but before reaching the hospital he became unconscious. Upon reaching the ward a solution of tannic acid was given him, only a portion of which went into the stomach. Also an injection per rectum of Brom. Potass., ʒii. Hydrat. Chloral, ʒiv. The stomach-pump was then used with some difficulty and a small amount of warm water introduced into the stomach, but further efforts in this direction were frustrated by the patient biting off the tube. A hypodermic injection of apomorphia was administered.

11.15 A. M.—Pulse 85, respiration easy, pupils dilated, unconscious.

11.30.—A second hypodermic injection of apomorphia, one-third grain dissolved in ether and alcohol.

Brom Potass ʒss. in solution per orem.

11.45.—Pulse 85, more feeble, pupils contracted, unconscious, grating teeth.

11.50.—Injection per rectum passed by long tube into colon, of Fld. Extract Cocoa, ʒii. Spiritus Frumenti, ʒiss. Aqua, ʒss. The patient vomited suddenly about a pint or more of brownish fluid.

12 M.—Pulse 80, and growing more feeble, pupils unequally dilated. Five drops of nitrite of amyl administered by inhalation. Pulse very irregular and scarcely perceptible.

12.10 P. M.—Impossible to detect radial pulse, patient apparently sinking rapidly. Injection per rectum: Hydrat. Chloral, ʒss. Fld. Ext. Cocoa, ʒi. Spts. Frumenti, ʒiss. Aqua, q. s. Hypodermic injection of whiskey, and flagellation with wet towel was continued for some minutes, and afterwards by slapping with the hands. Pupils slightly

dilated, pulse 80, very feeble. Two operations of the bowels after the second injection per rectum. Respiration stertorous, moaning, vomiting continues at intervals, grating of teeth less marked.

12.20 P. M.—Shows signs of consciousness when violently slapped on the back, groans and cries out, swallowed a little whiskey after great efforts to arouse him.

12.30 P. M.—Again vomiting and retching, continued moaning, respiration 14, pulse 80, irregular, pupils still contracted.

12.45 P. M.—Shows increased signs of returning consciousness when slapped violently on the back. Per orem : Hydrat. Chloral, grs. xv. Brom. Potass, ʒi. Spts. Frumenti, ʒss.

1 P. M.—Spoke distinctly. There has been no especial rigidity of the muscles of the jaw, although he clenches his teeth constantly and grits them. Vomiting again slightly.

1.15 P. M —Pulse 64, stronger, respiration 25, quiet, pupils normal, react slowly to light, vomited a little without much effort.

1.30 P. M.—He swallowed a little whiskey, but vomited immediately afterwards. Passed a semi-solid rectal evacuation. Injection per rectum : Hydrat. Chloral, grs. x. Brom-Potass, ʒss. Fld. Ext. Cocoa, ʒi. Spts. Frumenti, ʒss.

2 P. M.—Patient spoke and complained of being cold, legs drawn up. Hot bottle applied to feet and extra bed clothing.

2.30 P. M.—Pulse 70, strong and regular. Injection per rectum : Fld. Ext. Cocoa, ʒi. Spts. Frumenti, ʒi. Aqua, ʒi.

3.30 P. M.—Seems to be rapidly improving and has fully returned to consciousness. Complains of pain in region of

pit of stomach. Somewhat eased by application of cloths wrung out in hot water. Instead of rectal injection, has taken from feeding glass: Fld. Ext. Cocoa, ʒi. Spts. Frumenti, ℥i. Aqua, ʒss.

3.45 P. M.—Still complains of pain in stomach. Sat up in bed and said he wished to go to the "rear." Desires to urinate but cannot.

3.55 P. M.—Operations of both bladder and bowels. Swallowed about two ounces of beef tea thickened with bread. Complains of pain in bowels.

4.30 P. M.—Swallowed about one ounce of a mixture of Fld. Ext. Cocoa, ʒi. Spts. Frumenti, ℥i. Milk, ℥ii. The last-mentioned injection, per rectum, was again given. Pulse 86.

4.40 P. M.—Patient's condition very dull, sleepy, moaning and hiccoughing.

6 P.M.—Patient received a warm bath and change of clothing, and was placed in a clean bed. Ordered to have hourly throughout the night: Fld. Ext. Cocoa, ʒss. Spts. Vin. Gall., ℥i.

7 P. M.—Sleeping comfortably. Vomited immediately after receiving each dose of the above mixture, through the night.

3 A. M., January 26.—Has passed some bloody fluid from rectum.

8 A. M.—To allay pain, received per orem: Deod. Tinc. Opii. gtt., xxv., and per rectum: Oleum Olivæ, ℥i. Fld. Ext. Cocoa, ʒss. Spts. Frumenti, ℥i.

9 A. M.—Still complains of soreness in the bowels, but says that otherwise he feels very well and comfortable. Has eaten a little extract of licorice to take away the dis-

agreeable taste in his mouth, which he attributes to the strychnine.

3 P. M.—Patient very comfortable, perspiring freely. Has taken nourishment, and appears to be doing well in every way. The patient continued to improve and was returned to duty.

REMARKS.

Patient is supposed to have eaten about fifteen grains of strychnine. He says that the amount he swallowed would more than cover an ordinary ten cent piece. The news of the death of a sister depressed him very much, and he attempted to drown his sorrows in drink. He claims to have no recollection of attempting suicide.

TWO CASES OF INSANITY BEFORE ECCLESIASTICAL COURTS.*

By JOHN LAMBERT, M.D., Salem, New York.

To the Medico-Legal Society of New York:

GENTLEMEN—In this paper that I have the honor to present for your consideration, I call attention to two cases of insanity, which were the subjects of ecclesiastico-legal proceedings.

From a somewhat extended experience in ecclesiastical courts, in three of our leading denominations, I conclude, that questions of mental aberration are quite as often adrift there as before an ordinary court and jury.

CASE I—Mrs. ——— was married at 19 years of age, medium size, almost perfect in symmetry, nervous temperament, and had enjoyed uniformly good health. She inherited great longevity and vigor on the father's side, and short life and a taint of emotional insanity from the mother's branch of the family. In Sept., 1851, an *ex-parte* Ecclesiastical Council, composed of some of the most eminent divines in the Congregational Church of my native State, (Maine), was convened for the purpose of reviewing the action of a certain church, 11 years previously, in exscinding Mrs. ——— from its fellowship for alleged offences.

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* Read before the Medico-Legal Society of New York, October 22, 1884.

Gentlemen distinguished in the legal and medical professions were called as witnesses by the appellant, and much interest was felt in the results of this case, since, as a precedent, it would go far in establishing the status of insane church members (a much mooted question at that time), who, hitherto, to a considerable extent, had been regarded as demoniacs, entitled only to the tender mercies and sympathies of the world's people and the devil! Just prior to the action of expulsion in 1840, the apparent misconduct of Mrs. ——— had been clearly proven, by members of her own family, at a session of the Supreme Court in a contested will case; and notwithstanding her behavior was such that it could not be reasonably explained on any other hypothesis than that of insanity, this idea seemed not to have been suggested either by physicians, the learned judges or by counsel. The church took up the case on a charge of common fame, and disposed of it without the formality of a hearing, or giving the accused or her friends an opportunity of making answer; and they adjudged it a veritable "Satanic possession," only one voice being heard in protest.

The church assenting, the council organized as a mutual council, and thus its decisions were made authoritative.

The ground taken by the appellant was (*a*) that at the time Mrs. ——— was admitted to church membership, and for several years thereafter, she gave satisfactory evidence of consistent and exemplary piety; (*b*) that within a year of her marriage, she gave birth to an only son after a protracted and severe instrumental labor; (*c*) that she suffered from child-bed fever and puerperal mania; (*d*) that she developed a permanent periodical monomania, which did not affect her

conduct, irrespective of the subject of her mental aberration; (*e*) that just before, during and immediately after the menses, she suffered such an exacerbation of the insane idea as to involve the operation of all her mental faculties, during which times she committed the alleged immoralities; (*f*) that she enjoyed lucid intervals of a week or ten days, occasionally for a longer period, during which seasons she was consistent and christian in conduct; and (*g*) finally, that insanity constitutes no ground for church discipline.

Every fact assumed above was fully sustained by the evidence adduced.

It appeared that, in connection with the menses, this lady suffered from severe local, pelvic tenderness and pain, supposed by the attending physician to indicate a "periodical inflammation of the bowels," for which she received for years an almost monthly dose of calomel and jalap! It was shown that she had fallen under the delusion that she was to be married, on each succeeding month, to a distinguished U. S. Senator, whose wife was then living; and that she frequently and surreptitiously purloined considerable sums of money from her husband's secretary, which she very artfully expended in the purchase of her trousseau. It was also shown that, after this gentleman's death, she transferred the same delusion to a prominent lawyer, whose wife was still living.

It was further shown that this lady, naturally modest and amiable, became vulgar, profane, and intensely vindictive, when suffering from the physical malady. The case was most sternly contested, inch by inch, by the committee of the church, the chairman of which, an old practitioner, had been the attending physician.

After a searching and exhaustive hearing of the case, the council closes its able finding as follows, *i.e.:*

"The council, after the close of the testimony, upon the statement of facts by both parties, are unanimously of the opinion that the probability of Mrs. ———'s periodical insanity at the time of committing the alleged offenses is fully established by the evidence, and that she was not to be held responsible for her action in the case. They desire not to cast the least censure upon the church, (etc.) But they are satisfied that, from evidence since brought to light, the conduct then regarded as unchristian was to be attributed to mental alienation. They express their belief that, since there has been, as they think, an erroneous and, though mistaken, an unjust course of discipline adopted by the church in the case of Mrs. ———, equity demands that she should be restored to her good standing in the church, by a revocation of the vote of expulsion; and they unite in affectionately recommending this mode of procedure to the church in ———.

"Their own conviction is that insanity constitutes no ground for the exclusion from the Church of Christ of one against whom no other offense is charged. Voted, that when we adjourn, we adjourn to meet at a call of the moderator."

As the council anticipated, by the manner of its adjournment, the church was dissatisfied with this decision; and attempted to stand upon its prerogatives as an independent church court, until learning that the moderator was about to issue a call, which included a citation for the church to appear and show cause, why it had not acted upon the recommendation of the council, its members hastily assembled and formally restored Mrs. ——— to membership. The fact of a

bifid laceration of the cervix uteri, extensive uterine disease, and metamorphosis of tissues having been present in this case, was subsequently fully and unquestionably established, while the patient was an inmate of an insane asylum for nearly two years, during the critical period. Such were the peculiarities of the case, and so lady-like was she during the first months of her residence at the asylum, that the superintendent questioned the fact of her insanity, but once the abnormal line was passed, he wrote, "She lost self-control and became one of the most troublesome of our patients, and it was manifest to us all that no private family could endure the perpetual annoyance of her fanciful conduct."

In the course of time the delusion became a fixed and continuous matter; and although her reason and deportment were correct regarding all other subjects, she specially noted every sermon, the proceedings of every public assembly, the legislatures, Congress and parliament, with reference to their bearing and influence upon her matrimonial prospects. All this was artfully and carefully concealed from those casually brought into contact with her, unless accidentally the fuse was lighted; and even then, she had marvelous dexterity, if she had reason to suspect the motives of those talking with her. Were she on the look out it would have required weeks, probably, for even an expert to trap her. She developed locomotor ataxy and helpless paresis of the insane, still she continued to dream of matrimony with a married gentleman of wealth, of a fine mansion, splendid equipage, etc., etc., and finally, died suddenly from paralysis of the heart, after fifty years of this fanciful life.

It is a matter of note in this case; (*a*) that, with such evi-

dences of mental aberration before them, as were patent to this lady's family, her physician, the court, learned counsel, and the church, the idea of insanity was not suggested and acted upon; (*b*) that it was left to a young physician, an embryo gynæcologist, to develop and prosecute the case, in the face of such powerful opposition; (*c*) that an Ecclesiastical Council was found, 40 years ago, to issue a case of this character with such rare intelligence and decision, and in opposition to the current thought and feeling among the churches of that time; and (*d*) the case presents some features of interest to the alienist and gynæcologist.

Case II.—Oct. 1, 1872, Rev. Mr. ——— consulted me first professionally. He was naturally robust and healthy in youth, and still had a fine physique; about 60 years of age. He possessed a strong, logical mind; was intelligent in a wide range; in general self-poised among his fellows, and altogether he was more than an average man in his denomination. On the 24th of July previous he had sustained an injury of the head, from a collision of street cars in Boston. He insisted that he was suffering from the presence of glass or other foreign substance in the right eye. A careful examination of the eye revealed no foreign matter in or local disease of the eye to correspond with the symptoms, which his case at that time presented. He had paralysis of the lids of the eye and muscles of the right side of the face; dilatation of the pupil; the voice was changed; he complained of severe pain in the right temporal region; of a constant pain and ringing sensation or sound in the right ear; of sleeplessness, confusion of thought, of inability to study or write; his gait was manifestly unsteady, and there was an evident want of general vitality. I ex-

pressed the opinion that the injury to the eye (a slight cut in the upper lid) was a small matter in its effects, but that he had sustained a serious lesion of the brain or its membranes. He related to me that, when 15 years of age, he suffered from sun stroke and over-exertion in the hay field, from the effects of which he had never fully recovered, and that from its immediate effects he was a helpless invalid for more than three years, a sufferer from "head and back troubles."

After he entered the ministry, the preparation for which proved a severe mental strain, he was subject, after a special tax upon his intellectual resources, to attacks of sudden unconsciousness, during which seasons, as he had been told, he had done many singular things, such as walking into a parishioner's house and standing for an hour without speaking to any one, or being aware of the presence of other parties, who were greatly embarrassed by the performance. He was quickly worried, could not bear contradiction, was easily thrown off his guard, could not control himself often, notwithstanding the most strenuous and conscientious endeavors.

He could, however, endure great fatigue and mental labor at times, when not disturbed by exciting causes. He stood well in his denomination as a theologian and a man of executive ability. I regarded the Boston accident the more serious, since it supervened such a condition of the nervous system as I found to have existed for years in the case.

I insisted upon perfect rest from all mental work, and, if possible, freedom from all care.

He did not altogether accept my views or follow my advice fully, and there was a steady development of serious brain symptoms.

In December, he accompanied me to Albany for consultation with an eminent occulist, the late Dr. Chas. A. Robertson, who fully confirmed my diagnosis and apprehension that grave complications were imminent. During the early part of the following year (1873), the patient was, at times, greatly depressed and moody. He complained of increasing incapacity to go forward with his professional work—or to engage in the requirements of social or domestic life. He suffered from periodical exacerbations of aggravated nervous symptoms; he was not inclined to furnish information regarding himself, in answer to any questions, and he appeared to be suspicious of every one.

He developed suicidal tendencies; poison was found in his possession, which he confessed to me he had for the purpose of ending his misery, if it should become unbearable. August 29, I was called to his house, and found the family in a state of great excitement and confusion.

Mr. ——— had been thrown into a fearful state of agitation by some trivial cause. He had overthrown furniture, had rushed from the house to the stable, fastening the door, then out again, striking down an inmate of his house, and to his study, the door of which he fastened securely. He reluctantly admitted me and immediately hid himself in the bed clothes.

His agitation and fear of some impending evil were extreme, but he could give me no idea of what troubled him. He clung to me piteously for protection. With proper care and treatment, he passed the night in tolerable quiet. He was exhausted and demented in the morning, and wholly unconscious of the transactions of the evening before.

He was seen at this time by the late Dr. E. W. Ware, U.

S. Navy, who concurred in the opinion that it was a case of acute mania, and that he should be immediately sent to the insane asylum. Circumstances did not permit this course to be adopted, and I kept the case under close surveillance and observation. He rallied slowly and returned to his pulpit on the fourth Sabbath after this attack, though against my emphatic protest. After this he developed symptoms of locomotor ataxy. He complained of insensibility of his legs and feet. He had manifest difficulty in going up and down stairs. He had frequent attacks of vertigo. There was an increase of occular troubles. The tracings of his pen were very irregular. There was, as he told me, an almost total suspension of venerial power, and dyspeptic difficulties were much increased. December 2nd, he again had an attack of acute mania, after having preached the day previous. On the 21st he again occupied his pulpit, and on the 22nd he suffered again. These attacks were much less severe than the first. He returned to his pulpit January 25, 1874. He told me that, for years, he had at times feared self-destruction, and had not considered it safe to be alone in his study or while riding; and, hence, he had provided for the presence of some one whenever possible.

On more than one occasion did he leave his house to take the cars to fill a professional engagement away from home and unattended, when, impelled by some unknown and irresistible influence, he would be driven off to the fields and woods, where he would remain for hours unconscious of where he was; for the time being his existence was a blank. I learned from his wife that once he returned late at night, cold and wet from such an excursion, and he was unable to give any account of himself, and he seemed perfectly indif-

ferent regarding the matter. At one such time, he was filthy and his clothes were soiled with horse manure, and he required a total change of vestments and thorough ablution. It transpired that he had been for hours in the church horse sheds. At another time he ran down a vehicle, while out driving alone, and he appeared perfectly unconcerned with reference to the matter, and helpless also. The impression made upon the other party was that he was either intoxicated or crazy.

I once found him in a state bordering upon idiocy from the effects of bromide of potash, of which he had taken a pound within three weeks, with a view of removing distressing head symptoms and insomnia, as he informed me. He had been in the habit of prescribing for himself, and insisted upon doing so. March 1st he developed typhoid pneumonia, then prevailing. He was with difficulty carried through this. He resumed his duties in April, still in a feeble condition. After the pneumonia there were no repetitions of the maniacal attacks, so far as I am informed.

In 1877, after having gone to another field of labor, he was put on trial before a jury of his peers for unchristian and unministerial conduct, and his character for years was a subject of question.

Through the comity of churches, I was summoned as a witness for the defense, with a view of establishing a plea of insanity. The facts above tabulated, with others, were quite fully brought out at the investigation. I expressed the opinion and conviction that the Rev. Mr. ——— was subject to periodical acute mania, and temporary loss of consciousness, from August 29, 1873, until the pneumonia in March, 1874; and that this was dependent upon injuries of the head,

received in Boston July 24, 1872. I also expressed the opinion that his nervous system and mind had been disordered to such an extent as to raise a serious doubt as to his moral accountability since the sunstroke when he was fifteen years of age. I further expressed the opinion that he was still of unsound mind.

I introduced a statement of his case, which I had sent to Drs. Gray, of the Utica Asylum, and Harlow, of the Insane Asylum, Augusta, Maine, upon which was endorsed their unequivocal opinions that the man was insane. I was credibly informed that the question of insanity received almost no consideration in the finding of the court. This case was sadly and unhappily complicated, and the members of this council were all honorable and true christian gentlemen, intelligently disposed to do their duty in the premises, but I felt, and still think, that the evidence was sufficiently full and strong to have warranted a verdict of unsound mind; thus excusing his conduct, and enabling the council to retire him to the list of superannuates, without harm to the church which he had so long and ably served.

I very earnestly urged this course of procedure in private. This gentleman died about a year since, as I was informed, of nervous exhaustion, and carried with him to the grave evidences of the correctness of the opinions expressed in his case by the experts giving testimony to the court.

In commenting upon this sad case of struggle between reason and insanity, between a condition, at times, bordering on total dementia and a capacity, within a few days thereafter, for pulpit and platform efforts of a high order; and between the devoted husband and amiable father and the furious maniac, I remark that, it being impossible for me to

place the patient in the asylum, for his own benefit and others' safety, without troublesome proceedings, I determined to hold the case under very close personal observation and influence, in the hope that he might be able to carry and finish his course, as he earnestly desired and pleaded with me.

I was encouraged, from the fact that he came to realize his condition quite clearly, and was disposed to bring all his mental and moral resources into requisition.

I had previously under my care an eminent divine and author, who successfully overcame a pronounced mental and moral aberration by a determined exercise of his reserve moral and mental resources, aided by such professional care and kind offices as seemed advisable in his case; and this gentleman came to the close of life in peace of mind and soul some years subsequently.

I know a prominent physician, now doing a successful work, who, in early professional life, was daily beset with a strong suicidal impulse. He fully realized the situation, and he contemplated voluntarily going to the asylum for self-protection; but he resolutely concluded to put the instrument, a delicate tenotomy knife, with which he was to open the femoral artery, in full daily view, and by strength of mental and christian force of character, he fought the enemy out on this line until the glittering blade had rusted and he had conquered. In my view, too little careful, intelligent differentiation is exercised at the present time, with reference to the matter of sending insane patients to the asylum.

With regard to questions of insanity before ecclesiastical courts, I am quite sure that the great and felt need is for

more specific, authoritative and briefly tabulated knowledge on the subject, as it now stands, than is accessible to the public. A well digested book of moderate size, and well adapted for the use suggested, would, I doubt not, be appreciated and widely adopted by the churches.

TRANSACTIONS OF SOCIETIES.

MEDICO-LEGAL SOCIETY OF NEW YORK.

Presidency of Clark Bell, Esq.

September 24th, 1884.—Meeting held at Hotel Brunswick. Contributions of books to the library were announced by Hon. David Dudley Field, Clark Bell, C. L. Dana, M.D., E. N. Dickerson, Jabez Hogg, M.D., of London; Prof. Dr. Von Krafft-Ebing, of Austria; Prof. Dr. Herman Kornfeld, of Silesia, John Lambert, M.D., and others.

The following gentlemen were elected active members:

John Lambert, M.D., Salem, N. Y.

G. R. Eldridge, Esq., Delphi, Indiana.

Harry Hakes, Esq., M.D., Wilkesbarre, Pa.

J. A. Irwin, M.D., New York City.

The following gentlemen were, upon the nomination of the President and recommendation of the Executive Committee, elected as corresponding members:

Prof. Dr. L. Meyer, Gottingen, Germany.

Prof. Dr. Holtzendorf, Munich, Bavaria.

Prof. W. H. O. Sankey, Baschurch, North Shrewsbury, England.

Prof. Dr. Herman Kornfeld, Grottkau, Silesia.

Prof. Dr. Wilhelm Emil Wahlberg, Vienna, Austria.

Dr. Julius Glaser, General Procurator, Vienna, Austria.

Prof. Dr. J. Mierzejewski, St. Petersburgh, Russia

J. L. Hanna, Esq., Editor *Maryland Law Record*, Baltimore, Md.

Letters were read sent to the President of the Society from Prof. Dr. L. Meyer, of Gottingen, Germany; Dr. Sankey, of London; Prof. Dr. Holtzendorf, of Munich; Prof. Dr. Kornfeld, of Silesia; Prof. Dr. Wilhelm Emil Wahlberg, of Vienna, and from Prof. Julius Glaser, of Vienna.

A paper was read by the Chair in the absence of the author, W. Thornton Parker, M.D., Assistant Surgeon United States Army, on "A Case of Poisoning (Suicidal) with Strychnine."

A paper was read by the President, Clark Bell, Esq., entitled "Madness and Crime."

The following gentlemen participated in the discussion of the latter paper:

Dr. J. M. Carnochan, Mr. Austin Abbott, Hon. George H. Yeaman, Dr. C. L. Dana, Dr. McCloud, Mr. J. E. McIntyre, Judge Calvin, and Prof. R. H. Lyon.

The Chair closed the discussion, which was as follows:

DISCUSSION OF MR. BELL'S PAPER ENTITLED "MADNESS AND CRIME."

Dr. Carnochan: I came in so late that I hardly expected to be called upon to speak; but, from the part of the paper I have heard read, a great deal will depend upon the definition of the word "insanity." That seems to be the trouble with all the decisions. There is scarcely a decision given, where a man is tried and the plea of insanity is interposed, but there is a difference of opinion in regard to the meaning of "insanity." The question is not answered, because of the misunderstanding, the meaning of the word is loosely understood, and the authorities that Mr. Bell has quoted, all of them seem to be running away from the judges and medical definition, and referring it to the lawyers. All the authorities quoted by Mr. Bell seem to run in that direction, and it seems to me that as long as this theory is pursued as to the meaning of insanity, there will be more or less confusion in regard to the matter. Of course the subject is important, because upon the mere *ipsi dixit* influencing

the jury, a man's life, property and person are all in danger; and it is really one of those subjects that invites the attention of this body. In this Society there are legal minds of great acuteness, and medical men with grasp of mind sufficient to handle the subject with great ability. I have heard enough of the paper to desire to say more on the subject when I have had time to consider it as a whole.

Hon. Geo. H. Yeaman: I have to confess, Mr. President, that I had expected much more upon the very subject to which Dr. Carnochan calls attention, to wit: What is insanity? what is the proper definition of the word insanity? I have not thought so much upon the precise state of the law—common or statutory—as upon the tests of responsibility of those who are supposed to be insane. I thoroughly agree with Dr. Carnochan, however, that the great stumbling block has been in fixing any clear definition as to what insanity is. The difference between harmonious action and abnormal action is such that it is impossible to say, on the one hand, when you have reached legal darkness, and, on the other, when you have reached legal light.

Practising, as I do, entirely on the civil side of the calenders, it is nearly a quarter of a century since I have gone to the defence of a man accused of crime, and I confess that the reading of this paper has confused me on the law of the question. I confess that I stand here to-night astonished to hear the exposition of the law of England, as set forth by Mr. Bell. That part of it relating to the power of knowing the moral quality of the act I am quite familiar with; but that there should now be an actual struggle to introduce the other element that a man shall not be blamed if, at the time of the act, he was under an uncontrollable impulse, astonishes me beyond measure. In my younger days the practice was, that degree of insanity which excused or rather which prevented the offender from being punished was that the man, at the time he committed the act, did not know the moral quality, and could not, therefore, know the legality

or illegality of it, or was acting under an insane, uncontrollable impulse, though knowing the illegality. That was my practice in my boyhood, and I now confess I am astonished at the struggle to create this new law. I take my seat recognizing the insurmountable difficulty that occurs all through this discussion. I have also recognized that the stumbling block is the want of a satisfactory definition of what is insanity, upon which the courts may say, on this side, he is responsible, and on that he is irresponsible.

Mr. Austin Abbott said, in substance: The paper of the evening is a notable contribution to the solution of the problem, for it is distinguished from the discussions that have preceded it by the clearness with which it defines the existing state of the law—the point of progress to which the law has now advanced—and the clearness with which it presents the question which has next to be determined, in considering what further progress can be made. It shows us the existing situation to be, that criminal irresponsibility is recognized where the person has not the capacity of knowing the moral or legal quality of the act, at the time when he committed it; and it shows us that the question next in order is whether criminal irresponsibility shall not be recognized also, when even though having that capacity he acted under uncontrollable impulse. I have not seen anywhere a more lucid statement of the present phase of the discussion, as a practical question for legislators, than this paper of the President.

Now, in attempting to answer that question, we are met with this difficulty—that the law has to deal with ascertainable and provable facts. Medical science can deal with inscrutable facts, and must act as best it can upon uncertainties; and medico-legal jurisprudence consists of that part of medical knowledge which has sufficient definiteness and positiveness to make it safe for the law to adopt it as a basis of adjudication. Now, the question whether a man, at a given time in the past, was acting under impulses which

he could not control, appears in the present state of medical knowledge, and with the present methods of legal investigation, to be an inscrutable fact for the purpose of legal adjudication. It may be ascertainable with sufficient certainty for medical purposes; it is not ascertainable in the usual methods of trial, with sufficient certainty for judicial purposes. What are the reasons that the law stops where it does now, for there must be some reason. It is not the unwillingness of the public, or of the jurists, to make the law conform to medical knowledge and the dictates of humanity. I take it that the reason is to be found in the very grave difficulties involved in the attempt to prove that the impulse under which any man, in a given time in the past, acted, was one which he could not control, in a case where it is also clear that he had the capacity to know the act was wrong.

Now, what are the difficulties which must be removed before such a question can be satisfactorily determined by the courts? In the first place, physicians themselves are not sufficiently agreed upon it. It is not enough that a majority of experts should be agreed in order to bring a medical question within the domain of legal treatment as an adopted rule of law. I may be very clear, for instance, in my conviction that homœopathy is a worthless mode of treatment; but it is not enough that a majority of medical experts agree in condemning the system to make it negligence, as a matter of law, to rely on it. So with the question of uncontrollable impulse—it is not enough to show us that a majority of medical experts recognize its existence in minds capable of knowing the act to be wrong. Before it can safely be adopted as a rule of law, it must be ascertained and recognized with such general concurrence that it can be practically established in a judicial tribunal. An advance in medical knowledge on the subject far beyond what has yet been reached is necessary, in order to enable the courts to try the question whether it existed in a given person at a given time in the past.

Medical knowledge is not yet sufficiently advanced even to describe what is meant in a manner likely to be understood by lawyers, judges and juries. Perhaps the best expression is that most commonly used: "uncontrollable impulse." But juries and many lawyers probably understand by that term just what medical men do *not* mean.

We are all accustomed to its use in such expressions as "uncontrollable laughter;" "his excitement was uncontrollable;" "his hunger was uncontrollable;" "the child was in an uncontrollable passion;" "the man lost his self-control." Now, in the common use of the term, it seems to indicate a condition in which external influences on the individual were stronger than interior restraint. Uncontrollable is the best term which medical men have found to describe what they refer to; but what they refer to in this question of criminal irresponsibility is of an entirely different character.

I observe in, I think, all instances given as cases of uncontrollable impulse, not an activity of the system acted on by external influences, but rather an interior impulse of idea, of sentiment, of feeling. This whole subject undoubtedly is yet unexplored and not yet perfectly understood; but we can see far enough to see that the uncontrollable impulse, which the psychologist refers to in this discussion is something very different from, or at least a very small portion of, that which is understood as uncontrollable impulse in common parlance. In other words, the psychologist's analysis of the subject has not yet gone so far as to enable him to describe this condition in terms which are sufficiently exact to be usable, in legal discussion, investigation and adjudication.

There are underlying reasons which, perhaps, may postpone the realization of this proposal beyond the time when the nature of this uncontrollable impulse becomes understood. It is the general impression, now, that a person should not be punished except for that which *he knew* was

wrong. But the legal test of liability is not whether he knew, but whether he *had the capacity :* and, if he had the capacity to know, the want of knowledge is not relevant.

But there is probably a deeper reason why the law has so long and so persistently treated men as amenable to punishment if they had the capacity to know the right and the wrong of the thing, irrespective of whether they actually did know it, and irrespective of the excuse of uncontrollable impulse ; a reason to be found in the history of the course of development of the sense of justice among men.

So far as the development of these capacities of knowledge and self-restraint are due to external influences, it is largely due to the fact that the law has punished men irrespective of whether they knew the quality of the act and irrespective of whether they could control their impulse. In other words, the punitive methods of the law have been the means of developing that capacity which otherwise would not have existed—or would have existed in a far less degree. To illustrate this by an analogy, take the case of a dog that you wish to train, so as to enable him to distinguish the right or wrong of his conduct, you can only do so by punishing him for doing that which you do not want, and rewarding him for doing that which you do want. It is only by punishment in advance of knowledge and in advance of self-control, that you educate or develop in him the capacity to understand and to control himself.

In the breaking of a horse it is only the punishment before knowledge and before self-restraint, which develops or creates in him the capacity for both. In the same way children come to their knowledge of what is right and what is wrong, and their capacity to control their impulses, in part at least, by being punished for those things which they had not, before, had the capacity to understand. In other words, the order of development is punishment first and knowledge and self-restraint afterward. The law, therefore, does not postpone the punishment until after those qualities are pos-

sessed; but establishes it as a means of awakening those qualities. I believe that those qualities of self-restraint which mark the highest notch of civilized character, have come largely through the existence and administration of the penal sanctions of law, against men, who, but for those penal sanctions, would have had much less capacity of distinguishing between right and wrong, and no power to restrain the impulses of nature. If this be so, the way to increase immensely the mischiefs of uncontrollable impulse in the community, is to put an end to punishment for acts committed under uncontrollable impulse; and the way to increase those faculties by which we control impulse is to maintain the punishment which the law inflicts for criminal acts, irrespective of the attempt to prove such impulses as a justification or excuse. It may well be, that the time will come when penal justice will be put on a better footing, but the refusal of the law to recognize such justification or excuse is made in view of the present state of public opinion, in view of the present imperfect adaptation of tribunals of justice to the investigation of uncontrollable impulse, and, we ought to add, in view of the present condition of society. I do not think that medical men appreciate, generally, the power which the existence of the law and its penal sanctions exercises on the lawless in aiding the control of what would otherwise be uncontrollable impulse. Those who are familiar with the administration of criminal law, those who are charged with its administration, those who have the responsibility of maintaining public peace and order will not, I think, deem it an exaggerated statement to say that, in all probability, if those salient assistants to self-control, which came from the existence of the penal law, were taken away, New York would be a ruin in a week, from what would, without those sanctions, be called the uncontrollable impulses of reckless, lawless and criminal classes.

But, it is objected, here are these men, whom it would be wicked to put to death. Does not, however, the present

system provide or allow provision for them in a manner which is quite proper, so long as the question remains a medical question, and not one, in its nature, capable of being satisfactorily solved by the usual legal methods? Was not exactly the right course pursued in England in the trial of these men; in their conviction; in the interposition of medical men, who could advise in the particular cases; and in the reprieve and commitment to asylums?

The question is one of great interest and importance, and one which demands the elucidation of medical science, but from the best reflection that I have been able to give to the theoretic aspect and to the practical workings of the subject I am confirmed in the opinion that there is much more to be done—if it be possible to be done—in the elucidation of the medical aspects of the question, before we shall have the means of the safe and satisfactory investigation of uncontrollable impulse as a provable fact in criminal jurisprudence.

R. H. Lyon, Esq.: I am inclined to think that the rule, as laid down in the McNaughton case and as incorporated in our Code, is amply sufficient for all practical purposes, and is as well adapted, as any rule of law can well be, to meet the requirements of such legislation, or that protection to society, to secure which such rules are made. The flexibility of the rule lies in the facility of its application to the cases coming up for trial, and why not, as suggested by Sir James Stephens in his learned comments upon this subject, let it always be the question of fact submitted to the jury for their determination, whether the accused, though lost to self-control, knew the nature of the quality of the act he was doing—and whether he knew it was wrong. If the fact be found that he knew the nature and quality of the act committed, and knew it was wrong and still did it, why should the plea be allowed as a sufficient defense that he did it because he could not help it? With the knowledge in question, is he not bound to help it—if in no other way—then by

placing himself, conscious as he must be, under the conditions assumed of this lack of self-control against criminal conduct, under such outward restraints that it will be impossible for him to give way to his impulses or commit the crime? Evil acts under sudden uncontrollable impulses are conceded to be the result of passion, and hence criminal; but where not so sudden should this not be held by law to be the duty of such a person possessing the knowledge in question? He is not so insane but that he is at large in society and enjoying all the freedom of the ordinary citizen, and the protection that society gives to such. What hardship or real injustice then can it be to him, under such circumstances, that he should be required as a reciprocal duty he owes to society for what he is thus permitted to enjoy, to protect himself against himself, for the better security of those about him, as he would be enabled to do generally, if not, indeed, always possessing the knowledge he is assumed to possess. Is it practicable, in view of the danger that threatens by opening wide the door to such a defense as this lack of power, simply to adopt any other rule that will better serve as a proper safe-guard to society against crime? It seems to me not. How easy it is to interpose such a defense as this want of power to desist from doing an act, the nature of which is fully understood, and known at the time to be wrong, by the perpetrator. Who shall draw the line between an insane and a criminal impulse? How shall it be determined, as a matter of legal evidence, that an emotion is an insane one or a sane one? Are the emotions and the forces of the will of one knowing the moral quality of his actions to be thus handled and shown up to a jury? By attempting this, and that too in view of the present uncertainties, latent difficulties and lack of precise knowledge concerning these relations, we are entering upon that which is too refined for the purposes of being made a practical and safe legal test of criminal responsibility.

To cite the language of our own Court of Appeals upon

this subject (Flanagan *v.* The People, &c., 52 N. Y., 470, decided April, 1873): "Whatever medical or scientific authority there may be for this view," to wit: "that there is a form of insanity in which the faculties are so disordered and deranged that a man, though he perceives the moral quality of his acts, is unable to control them and is urged by some mysterious pressure to the commission of acts the consequence of which he anticipates but cannot avoid," it has not been accepted by courts of law. The vagueness and uncertainty of the inquiry which would be opened, and the manifest danger of introducing the limitation claimed into the rule of responsibility in cases of crime, may well cause courts to pause before assenting to it. Indulgence in evil passions weakens the restraining power of the will and conscience; and the rule suggested would be the cover for the commission of crime and its justification. The doctrine that a criminal act may be excused upon the notion of an irresistible impulse to commit it, where the offender has the ability to discover his legal and moral duty in respect to it, has no place in the law. Rolfe J., in Rogers *vs.* Allicut, where, on the trial of an indictment for poisoning, the defendant was alleged to have acted under some moral influence which he could not resist, said: "Every crime was committed under an influence of such a description, and the object of the law was to compel people to control those influences."

This subject was again considered by the same Court (Walker *vs.* The People, &c., 88 N. Y., 82, decided February, 1882), and the ruling of the Court in Flanagan *vs.* The People affirmed. In this case, which was a trial for abduction of a child, between seven and eight years of age, the defence being insanity of the accused, the Court was asked to charge "that the test of criminal responsibility, where the defence of insanity is interposed to an indictment, is whether the accused had sufficient reason to know right from wrong, and *whether or not he had sufficient power of con-*

trol to govern his actions." The Court refused to charge as requested, as to the last part relative to power of control, and this refusal was among the errors assigned upon which the Court of Appeals was called to pass. The Court, in affirming the ruling of the judge, refusing to charge as requested, uses this language: "The doctrine of irresponsibility for a crime committed by a person who had sufficient mental capacity to comprehend the nature and quality of his act, and to know that it was wrong, on the ground that he had not the power to control his actions, has not met with favor in the adjudications in this State referring to Flanagan *vs.* People." But without entering upon a discussion of the question on its general merits, we are of the opinion that in the present case, it would have been clearly improper to submit to the jury any such vague test as that requested, when considered with reference to the character of the crime for which the prisoner was on trial, and the testimony which was before the jury, as to his previous similar offences. The jury, upon the evidence, might have found that the prisoner had an uncontrollable propensity to abduct young girls, and that his appetites were so depraved and over-powering that he was unable to resist them; and, if they so found, that it was their duty to acquit as requested, would have led them to suppose that it was their duty to acquit even though they were satisfied that he was possessed of sufficient reason to know that the act was wrong and criminal." "The Court did charge that a man must have sufficient control of his mental faculties to form a criminal intent before he can be held responsible for a criminal act. This, we think, was as far as the Court could go on the subject of control under the circumstances of this case."

The practical difficulty of applying the test of power as a defence is not diminished in view of the great variety of criminal offences. As a rule of universal application it must be applied indiscriminately.

But, without dwelling further, why may not this morbid or irresistible impulse affecting the will be left with all the other evidences for the jury to determine—under the rules already mentioned—whether, as a matter of fact, the accused knew the nature or the quality of the act he was doing, and that he was doing wrong.

How can one be said to know the nature of the act he is doing when he has lost his self-control? Why, is it not enough to say as Sir James Stephens says: "Knowledge and power are the constituent elements of all voluntary action, and if either is seriously impaired the other is disabled. It is as true that a man who cannot control himself does not know the nature of his acts as that a man who does not know the nature of his acts is incapable of self-control."

Dr. J. M. Carnochan: It seems to me that Mr. Abbott has stated a great deal that is true and correct; but, in regard to the medical aspect of insanity, which he seems to think so far at error and in the dark, the mere fact that the difficulties in which the subject is involved should stimulate our action.

We should go further and admit the facts of the record. What the medical profession is trying to do is to correct the vagaries of the judiciary, and the men who have been reasoning on the question of insanity since the days of Confucius. We all know very well that healthy philosophy or mental philosophy is just as far in the dark as it was fifty years ago, in regard to the tangible authorities upon which it shall rest. In regard to impulse, in regard to memory and in regard to all elements of mental action, the medical men are trying to bring about certain principles which will regulate the lawyers as well as the judges, so that when they give a definition, on which the lawyer makes his appeal and the judge bases his charge, we shall get a more rational judicial opinion and a verdict more in accordance with justice and humanity, so that justice, instead of being an intangible quality, will become a quality which the general opinion of

humanity will accede to. That's what the medical profession desires. Mr. Abbott will, no doubt, agree that a great many opinions in law and metaphysics are still correct, and founded upon reasoning which physical investigation will prove to be correct. What we want is some authoritative action based upon tangible data, to be subjected to research, criticism and study, and erected as a foundation of judicial investigation, so that the word "insanity" will mean really something founded upon tangible data, which admits of no dispute by the judges and lawyers—that's what the medical profession desires to accomplish.

Mr. Yeaman: I would like to ask, is anything more inscrutable in its medical aspects, in determining that a man was acting under an insane impulse, knowing the same, than there is in attempting to determine that he acted without capacity?

Dr. Carnochan: As I understand the matter of definition is to be brought up for full discussion at a future meeting, probably the matter will be more fully explained at that time than at the present. We are now debating from a legal rather than from a physical or medical standpoint.

Mr. Charles L. Dana: The subject is a large one, and as I have not the happy facility of expression that my legal brothers have, I don't know that I will be able fairly to express myself even so far as I have thought upon it. However, I agree pretty closely with the rule as laid down by Sir James Stephens. It seems to me we cannot take a step in advance more safely than by following the points which he suggests. For a good while the legal and medical professions have been at logger-heads, because the legal gentlemen insist that there are some cases of insanity where responsibility for action still exists, whereas the medical men have said that insanity and irresponsibility go together.

Now, medical science has so enlarged the limits of insani-

ty, that the term includes in strictness a large number of persons heretofore considered, perhaps, only eccentric or vicious. Practically, this carries the doctors back a little towards the legal position. Science and law, however, can never meet upon the old knowlege of right and wrong test. The lawyers, too, must make advances, and this Sir James Stephens has shown they can do.

I believe that the question of a prisoner's sanity or insanity ought always first to be settled by a medical commission. If they judge him sane he goes to trial. But if they judge him insane, that should not settle finally the question of his responsibility or treatment by the law. His insanity might be one of those slight forms of psychical degeneration that but partially destroys responsibility. For society cannot yet afford to let every cranky, border-line criminal be looked upon as an irresponsible. There is a sociological therapeutics which demands imprisonment or hanging more strongly than psychiatrical therapeutics demands drugs and the comfortable seclusion of a retreat.

So far as definitions of insanity go, I have read every one of them, and upon analysis they all amount to this, and no more: that insanity is a disease of the brain in which the psychical functions are seriously impaired.

In place of "psychical functions" put some periphrastic metaphysics, and in place of "seriously impaired" put some technical circumlocutions, and you get the conventional definition. I do not deny that these latter may be practically more useful in affecting juries. It is a curious comment upon human vanity, that every alienist writer feels compelled to concoct his own definition, just as every druggist has his own tooth-powder and every dog doctor his own mange cure. Immortality awaits the man who first declines to define insanity.

Mr. J. E. McIntyre: I have heard a great deal about irresistible impulse. I don't pretend to know much about insanity, except what I have heard in this society, and I

think I recollect having once heard the opinion expressed, by one or more of our medical gentlemen, that there was no such thing as irresistible impulse. If there is such a difference of opinion on the subject, how is it possible for legal minds to arrive at any proper conclusion as to the responsibility of one man for his crime and the irresponsibility of another? But still, although there is such a vast difference of opinion in regard to responsibility or irresponsibility, it has occurred to me during this discussion that the method of investigation, which our system of jurisprudence calls for, is rather crude. It seems to me to ask twelve men, who are inexperienced—who merely come because they are summoned—who come from their business, to pass upon a matter of this kind, is rather stretching the point. Twelve such men are not the proper judges, and ought not to be, of persons charged with investigations concerning crimes of this nature no more than you would call upon them to determine the law of the case. We elect or call upon a judge, who has gone through the course of training as a jurist, to lay down the law in any case that is tried before him, and yet, at the same time, while we require this particular knowledge of the judge, in order to lay down the law, we do not require that same knowledge of the twelve quasi judges who sit there to investigate the most important part of the case—to wit, as to whether a crime has been committed and as to whether the criminal is responsible. Just as much as we require knowledge of the law in the judge we should require the same knowledge and course of training of those who assist the judge—the jurors—in investigating the facts and determining whether a man accused of crime is or is not responsible. I think when a person is charged with crime, whose plea is that he is not responsible, this feature of his case should be carefully investigated by medical men; because, inasmuch as there are so many phases of insanity—all of which may result in crime—it seems to me almost impossible to confine all these phases of insanity to one and

the same rule—to lay down the same rule for every phase of insanity that exists. It seems to me, that there is something in the law which ought to be rectified; and, inasmuch as insanity is a disease of the mind, simply, it is something that should be investigated by men who have studied diseases—men who know what they are investigating. I think if our system of jurisprudence were corrected in this regard, we would arrive at much more satisfactory conclusions.

Delano C. Calvin: I beg the indulgence of the Society for a moment in saying that Sir James, in his definition of insanity, says: "It means a state in which one or more of the above-named mental functions is performed in an abnormal manner, or not performed at all, by reason of some disease of the brain or nervous system." I think that medical minds will agree with me in the suggestion that there may be some functions of the mind performed in an abnormal manner; which, if denominated insanity, persons insane may, with propriety, be regarded as legally responsible for their acts; and for that reason it seems to me that the logic of the learned author is not quite right, especially when he says: "No act is crime if the person who does it is, at the time it is done, prevented, either by defective mental power or any disease affecting his mind, from knowing the nature and quality of his act, or from knowing that the act is wrong, or from controlling his own conduct, unless the absence of power of control has been produced by his own default." I am of the opinion that that definition in respect to personal responsibility, that the qualification "produced by his own default," is too broad. If a person becomes intoxicated, and under the influence of that intoxication commits crime, then I think all lawyers and medical men will agree with me in the opinion that he is responsible, and should be so held, for the result of that intoxication; but there are courses of conduct on the part of persons engaged in crime—the result of long continued abuse of the

laws of health and of mental vigor which may produce a condition of the mind amounting to irresponsible insanity. I think the medical profession will agree with me upon that subject, and every lawyer will agree with me in my criticism of Judge Stephens' definition that the mental functions may be performed in an abnormal manner, so as to relieve a person from knowledge as to his crime, and from anything like what is denominated an uncontrollable impulse. The learned gentleman who discussed that subject, and the difficulty arising from the incapacity of the medical profession to define what they mean by that expression, it seems to me, that the judge who is to try the criminal, before he can administer criminal justice, must understand, as well as the physician, all questions presented to him as expert questions. There are many things that the judge must determine upon the judgment and testimony of scientific witnesses, and if he does not understand them, it is no argument that they are not true; and for the purpose of administering justice he is not required to understand them, because, if he were, the calling in of expert testimony for the purpose of enlightening the Court would be unnecessary and uncalled for. I desire to call the Society's attention also to this question—whether, in his discussion of the responsibility of a person committing a crime under an uncontrollable impulse, he has not divested the question of the qualification which, I think, every jurist of experience—and certainly every scientific expert—attaches to that uncontrollable impulse? to wit: that that uncontrollable impulse is the result of a diseased mental condition; and for the purpose of making my own views more clearly understood, I will say that in a paper which I had the honor to read before this Society a year and a-half ago—in considering the present test of criminal responsibility, "*knowledge of right or wrong.*" I said: "Permit me to call attention to the obvious absurdity of admitting alienists to instruct the court and jury as to the scientific test of responsibility, and then disregarding the in-

struction in obedience to a rule of law evolved from a defective philosophy of the mind years ago, and which is now generally discarded by scientists of the highest standing and attainments.

The rule under consideration seems to be based upon the idea that the *will* is exclusively under the control of the *intellect;* whereas the disturbance of the emotions and feelings are regarded of at least equal consequence to the exercise of the will; and there are criminal cases where the criminal act seems to have sprung entirely from such disturbance. In judging of responsibility, it is necessary to consider the mental condition as a whole. In Germany the criminal code, the result of very careful discussion both by physicians and lawyers, provides "There is no criminal act when the actor, at the time of the offence, is in a state of unconsciousness or morbid disturbance of the mind, through which the free determination of his will is excluded."

If I were to venture a statement of the test of irresponsibility, I should say that *wherever any function of the mind is so diseased as to dominate the will in the commission of the particular act, there is no criminality.* In applying the test we must rely upon medical science to determine the extent of the disease and its manifestations, and whether any insane delusion or diseased function of the mind may co-exist with a responsible free will.

Dr. McCloud: I have been very much entertained by the paper read here to-night. I do not hesitate to say that, with our present knowledge, the exact definition of insanity is impossible. I do not know whether it was Mr. Bell's own statement or a quotation, in which he attempted to describe the beauties of the rainbow. I thought at the time, he may very well say that in many cases of insanity that we see, it is impossible to describe them by a statement. I think, however, much must be done upon the subject to make it more definitely understood. I think there is in the last number of the journal of this society, an article showing

how the superintendents of the various asylums have failed to properly formulate cases before them, and suggests that if this is done more carefully we would make great strides in this whole question of insanity. No doubt the difficulties surrounding the medical profession are very great; and one difficulty is that they are called upon to decide a case before they have had time to collect the facts which they believe to be necessary to give it the fullest consideration. There must be, in other words, a preliminary consideration. It seems to me that the definitions given of insanity are very crude in many cases, but we have only to follow up the subject to get it in a much better condition. I was very glad to hear the paper of this evening, but do not think it wise to speak before the gentlemen here to-night without preparation; therefore, I am sorry that I cannot say more to illustrate this great subject.

Clark Bell: The American law was correctly laid down in the Judge's charge, in the case of Guiteau. That is substantially the law of the land, and a law which, in some cases, may lead, as Sir James Stephens says, to "monstrous consequences." The question now is, shall the Legislature be asked to consider the matter, and so restate the law, as to bring the judges into a well recognized idea, of a settled principle of law, more in accordance with the views of the medical profession? As has been said, in Germany it is determined in one way, in France in another way, but in all countries, the ability to discriminate between right and wrong, and knowledge of the nature of the act, and of its legal consequences, strongly affects responsibility. I have not, in this paper, attempted to lay down any project, or bring forward any idea or plan, of what I would propose to have the Legislature do, or where to place the changes suggested by the situation. I have but quoted what several gentlemen have said upon this subject, to which I am desirous of bringing the attention of this Society. Has not the time come, now, for legislative action, when the medical profession as a

body, is unitedly against what is the recognized law of all English speaking countries? When minds like Sir James Fitz James Stephens takes the advanced ground, may I not ask my legal brethren to unite with me in saying that the doctrine of the McNaughton case cannot be sustained on reason or principle, has not the time come for us to unite in bringing the attention of the State Legislatures, in this country, to this subject, that they may restate for the Courts, the doctrine of legal responsibility in this class of cases? My Brother Yeaman correctly states what the law of Kentucky was when he commenced practice, as to responsibility in that State. Mr. Stephens, as a judge, might be compelled to administer the law, contrary to the special views which he has advanced in his work. The *law* was substantially stated correctly by Judge Cox in his charge to the jury. I believe that most men who have studied medical jurisprudence in either profession are prepared now to state, that the rule in McNaughton case is not a safe test of legal responsibility. If a man is the victim of an insane delusion, which controls and dominates his action, which he is unable to resist, though he may know the nature and consequences of his act, and be able to discriminate between right and wrong, if his act is the result of or caused by his delusion, he should not be held responsible.

There is tremendous force in the statement and position of Sir James to the legal mind, and his argument is one of the most masterly I have ever read. I have quoted only brief extracts from his able presentation. I have thought it proper to bring up this subject because of its importance. The question is, shall we address ourselves to the law-making powers in this country and ask for a restatement of the law of responsibility in the American States? In England they have a system which we have not. There the Home Secretary can institute medical inquiry after conviction, and if the medical gentlemen decide that the man is insane, her Majesty's Government can reprieve; but, under that law, the reprieved person is sent for an indefinite

period—during her Majesty's pleasure—to an insane asylum for criminals. Here Executive clemency is unconditional pardon, and the man improperly convicted of crime, is frequently set free. We have not the safeguards that England has, in some respects ; but what I desire is to call your attention to the question of the law of responsibility, and the apparent good reasons for a speedy consideration and restatement of the existing law by the law-making power."

The chair announced, in feeling remarks, the death of ex-Judge Freeman J. Fithian, a distinguished member of the body, and paid a tribute to those qualities of head and heart, that had endeared him to the Society and his friends, and suggested that appropriate action be taken.

Mr. John F. Baker offered the following resolutions :

Whereas—An honored member of the Medico-Legal Society has fallen in the battle of life.

On the fifth of August, 1884, Freeman J. Fithian peacefully passed from his earthly abode to that "bourn from whence no traveller returns."

He was in the active practice of the profession of the law from early manhood to a few days before his death.

He was endowed with many happy amenities, always generous to his fellows, and charitable to those who sought his aid and counsel.

He was, indeed, an ornament to the profession.

In his death the community and the legal profession have lost a worthy citizen, an eloquent advocate, and this Society a valued member.

Resolved, That the members of the Medico-Legal Society tender to his afflicted family their heartfelt sympathy and condolence.

Mr. John F. Baker spoke as follows : Ex-Judge Fithian, for years a member of this Society, who was born in the town of North East, Pennsylvania, died in New York City on the fifth of August, 1884, in the sixty-second year of his age.

When quite a young man he studied law in the office of Judge Gardner, at Lockport, N. Y., with whom he afterward became partner. He continued in active practice of the law for several years in the western part of the State, where he achieved much distinction.

Later he removed to Buffalo, and became a partner with the celebrated Eli Cook. For a term he served as District Attorney of the county.

He took up his residence in the City of New York twenty-two years ago, and at once became a conspicuous advocate at the bar.

He formed a co-partnership with Mr. Lemuel B. Clark twenty years ago, with whom he was associated, to the time of his death, and of whom his surviving partner speaks in commendable terms of his liberal generosity and bountiful charity.

His genial, noble and happy nature will long be remembered by those who knew him—

> For naught that sets one heart at ease,
> Or giveth happiness or peace,
> Was low-esteemed in his eyes.

He was appointed a Judge of the Superior Court of the City of New York by Governor Fenton, in which capacity he served with credit and ability for two years, being associated on the bench with Judges Monell, Jones, Barbour and Freedman.

For several years before his death he was employed as counsel and acted in the trial of many important causes, notably in the case of The New England Iron Company against The Metropolitan Elevated Railroad Company, in which was involved the sum of several millions of dollars.

His refined diction, and engaging eloquence, ever charmed his auditory, and will be long remembered by the bar of New York.

After remarks by several members, the resolutions were adopted.

The Executive Committee reported that the Finance and Executive Committee united in the recommendation, that the Society authorize the President and Secretary to execute a formal contract with the Medico-Legal Journal Association, to subscribe for one copy of the MEDICO-LEGAL JOURNAL for

each active, honorary and corresponding member of the Society, who was now or might hereafter become a member, for two years from termination of present subscription, commencing at No. 1, Vol. 3, and ending with No. 4, Vol. 4, at the price of one dollar each copy per annum, payable annually in advance, as before, conditioned upon the Journal Association making no additional charge for publication of transactions or original papers, and that the officers be also authorized and directed to renew the former subscription heretofore made by the Society for one hundred copies of the MEDICO-LEGAL JOURNAL at the price of three dollars per copy, payable semi-annually in advance, for the term of two years from expiration of present subscription, and commencing with No. 1, Vol. 3, and ending with No. 4, Vol. 4.

The report of the Executive committee was received, and, on motion, the report was unanimously adopted, and the officers authorized to make the contracts accordingly.

The Select Committee on room for use of Society reported progress, and that they hoped to be able to complete arrangments for the Society to meet in Columbia College at the next session.

The President, Secretary and Treasurer were, on motion, given full power to make such arrangement for use of hall for the sessions as would be in their judgment for the best interests of the Society.

Society adjourned.

L. P. HOLME, *Secretary.*

THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

MEETING OF OCTOBER 22, 1884.—The Society met at Columbia College, and in the absence of both the Secretaries, Dr. E. H. M. Sell was chosen Secretary, *pro tem.*

On recommendation of the Executive Committee the fol-

lowing gentlemen were duly elected active members: James O. Fanning, Esq., Albany, N. Y.; M. J. Southard, Esq., 155 Broadway, N. Y.; Victor Morawitz, Esq., 102 Broadway, N. Y.; Genl. Chas. Hughes, Sandy Hill, N. Y.; Adolphus D. Pape, 6 Wall street, and the following gentlemen as corresponding members: General Staats Anwalt Schwarze, Dresden, Saxony; C. J. Cullingworth, M.D., Manchester, England; Prof. M. G. Elzey, Washington, D. C.; Prof. Dr. L. Witle, Basle, Switzerland.

Contributions to the library were announced by the Chair from Dr. Herman Kornfeld and Dr. Jabez Hogg, of London, the State Library at Albany, the Bureau of Education, the Surgeon-General's Office at Washington, Prof. Dr. Wilhelm, E. Wahlberg, Prof. Dr. Von Krafft-Ebing, Hon. David Dudley Field, E. N. Dickerson, Clark Bell, J. C. Thomas, M.D., John Lambert, M.D., and others.

The paper of Dr. John Lambert, of Salem, N. Y., entitled "*Two Cases of Insanity before Ecclesiastical Courts*," was, in in the absence of Dr. Lambert, read by Mr. Roger Foster.

The paper of the President, entitled "Madness and Crime," was taken up and its discussion resumed by Messrs. Roger Foster, W. R. Birdsall, M.D., J. A. Irwin, M.D., Richard B. Kimball, LL.D., and ex-Justice George Shea, as follows:

The communications of Justice Stanley Matthews, of the Supreme Court of the United States, and of Mr. Justice Chas. P. Daniels, of the Supreme Court of the State of New York, were first read upon that paper:

WASHINGTON, October 13, 1884.

MY DEAR SIR: The subject of your paper—"Madness and Crime"—is a very large and a very deep one. To treat it critically would require much thought and careful discussion, beyond my opportunity or ability; to treat it otherwise I think will be very unsatisfactory. I shall have to content myself, in responding to your request, with a few suggestions, rather than attempt a systematic statement even of the results of my opinions.

The question does not relate to the actual state of the law, as I would be

compelled to decline offering extra-judicial opinions upon judicial questions ; but is rather how far insanity should be permitted to be a defence in prosecutions for crime

Allow me to say, in the outset, that its importance as a practical question consists not in the fact that many persons have been unjustly punished, who, by reason of insanity, ought to have been excused, but, in the other fact, that too many persons have been excused from punishment for crimes, under the pretext of having been insane, who ought to have been dealt with as criminals. And the question to be practically considered also embraces the inquiry, in respect to those who, by reason of insanity, cannot justly be tried or punished, what treatment they should receive as insane persons, too dangerous to be at liberty.

In considering the main question, the chief difficulty seems to be, to define with precision the judicial tests of insanity. It is manifest that in one aspect, it is a question of degree, both extensively and intensively. That is to say, a person may be the subject of admitted insane delusions, which affect his conduct only as to particular persons or in particular circumstances ; and, also, one may have sufficient strength of mental power rationally to conduct a particular transaction, or a particular series of transactions ; who, in respect to others, of a different and more complicated character, would fail through mental weakness. So that the question of responsibility to law, in reference to alleged crimes, is necessarily a question of degree and of circumstances, and individual in its character. There must, therefore, be a special test and standard in each case, adjusted with reference to its circumstances, including the characteristics and history of the party charged.

It follows from this, that many persons may, in a medical sense, be afflicted with a disease of insanity, who, nevertheless, in a judicial sense, in reference to the transaction in question, may have acted, without being affected by their disease. And hence arise many of the apparent differences of judgment between doctors and lawyers. The former called to testify upon a theoretical case, or upon an abstract one, pronounce the subject insane, who, in the particular matter of the inquiry may have been influenced only as are all other men, in the exercise of sound minds. The man is insane, to be sure, in a medical sense ; but his insanity in the matter of inquiry did not enter as an element in governing his conduct. Judicially, therefore, in that case, he ought to be treated as a sane person.

But whatever judicial tests may be applied to determine in what cases insanity should be allowed as a defence in prosecutions for crime, the point I would most insist on is this : In every case where that defence prevails, the verdict of the jury should declare the accused "not guilty, by reason of insanity." Upon that verdict the judgment of the law should be, that the defendant, instead of being set at liberty, be subjected to suitable imprisonment for an indefinite duration, not exceeding in cases of homicide, not punished capitally, the term prescribed for punishment if the verdict

had been guilty ; from which he should be discharged only by the act of the Chief Executive. as though in the exercise of the pardoning power, upon satisfactory proof by medical experts and from other sources, of complete and perfect recovery ; and not in such cases until after the lapse of a prescribed period, deemed sufficiently long, to furnish satisfactory assurance of permanent restoration.

Great pains, I think, ought to be taken in this or some other equally efficient mode to protect society against the irrational violence of lunatics and madmen, as dangerous to its peace as though they were capable of crime in its technical sense.

Respectfully,

STANLEY MATTHEWS.

CLARK BELL, ESQ , New York.

NEW YORK, O tober 16, 1884.

MY DEAR MR. BELL : I have read with very great interest your address on "Madness and Crime." It is a very complete and very able presentation of the subject, and I am many times obliged for the favor conferred by sending it. But with the constant pressure of other subjects on my time I am unable to add anything to the discussion. Every person will agree with you that the conviction of Cole was decidedly wrong. Under any careful application of the legal principles now applied, he would be acquitted of the crime of murder. And there is reason for believing that the same result did not follow his trial, because the evidence that was accessible was not produced. As to Gouldstone, the mental condition permits of more doubt. And the assassin of the President has always appeared to me to have been a person of decided perversion of all moral sentiment, rather than an insane man. I have read the address with great profit as well as interest, and I shall preserve it for consultation on future occasions.

Truly yours,

CHAS. DANIELS.

Mr. ROGER FOSTER: Mr. Chairman and gentlemen, it is with no little embarrassment that I rise at the suggestion of the chairman. For this, my first attendance at a meeting of our Society, is due to a desire for instruction and not to any idea of imparting knowledge. Yet, I must confess that the little attention which I have given to the subject of insanity, as related to our criminal law, has impressed me with more confidence in the present rule than in the expediency of any change that I have heard proposed.

It is generally conceded that the object of criminal law is one of two things: the satisfaction of that desire for vengeance which human beings share in common with brutes, or the prevention of crime. The origin of such law was probably the former; but with increased civilization, we have learned to look at the latter as the end for the legislator to keep in view. Prevention of crime by a penalty may, again, be caused in two ways: by the use of punishment either as a terrifying example, or as a means of reformation. Toward the second, perhaps the higher use, we have hitherto made little progress. The effect of punishment is now rather deterrent than remedial. Capital punishment can have that effect alone. For my part, I do not believe that society has as yet reached that stage of civilization—which, however, I think will come—when the State can dispense with the executioner. This being the case, why should we not destroy, like a wild beast, that man who is dangerous to the community because of an impairment of his mind or his conscience which still leaves him capable of knowing that the act which he intentionally commits is against the law?

Before the close of the discussion, I hope to hear from some of the gentlemen present, a more comprehensible definition of the term, irresistible impluse, than I am now acquainted with. For I confess—admitting as an extenuation that my study of this question has been very limited—that I have never yet seen one which seemed to me scientific or satisfactory. Many eminent men, theologians and metaphysicians—amongst whom are two as far apart on other subjects as Jonathan Edwards and Herbert Spencer—agree in thinking that men are irresistibly impelled to every act which they commit; each act being a single link in one great chain of causation, the origin and end of which human reason has never fathomed. If this be so, how shall we distinguish the irresistible impulse described by writers upon medical jurisprudence, from the passions which impel to the commission

of acts injurious to the common weal, men who are not claimed to be insane? The border line between sanity and insanity is confessedly very vague. An abnormal condition of the mind is the best definition of insanity that I know, apart from those which include delusion as an essential element. Yet, is not that condition of mind abnormal which makes a man prone to the commission of crime or vice? And must every man with a violent temper be called a lunatic, and thus become exempt from punishment? Few of us have not known men with an abnormal tendency to drink. Most of these had inherited the appetite; and though they usually kept it under control, at times it would be too strong for them. Shall the law consider them as irresponsible? Many men, again, have an abnormal fondness for women. Such a trait is often hereditary, as might be proved by the example of more than one well known family.

Are all of these to be considered as legally irresponsible? If so, will you extend the classification so as to include abnormal stinginess, or covetousness producing theft? If lack of motive be the test of irrresponsibility, such would be cases, where the ordinary mind could easily miss finding one. Where are we to stop?

Such, gentlemen, are the questions which are suggested to me by the interesting essay of our president.

My own views are the results rather of reflection than of study or experience. For that reason, I have the less faith in their soundness. It is my hope that some one who succeeds me, will make the matter clearer to my mind.

Dr. W. R. Birdsall: The discussion of this subject involves a good many intricate questions. Now perhaps a few examples of the way in which physicians use the term "irresistible impulse" would be better than an attempt to define, in a few words, the term as used.

A curious condition of the mind is found in a certain class of persons, who seem to be well enough in ordinary respects, who have the ability to transact business, and still who

show very peculiar tendencies in regard to some trivial object. I have in mind a patient I saw in Berlin, who apparently was intelligent enough, but he was afraid to cross a certain line where a knothole was visible in the floor. Professor Westphal, under whose treatment the man was, said he had never been able to get the man to go within several feet of the knothole. The man could not tell why it was, but he dreaded to approach it. He said that he was afraid he would fall through it. He would say he knew himself how perfectly ridiculous it was, yet he could not rid himself of the idea of danger.

Now, this is only one of many cases where persons afflicted in this way will form an impression that some object is an annoyance to them which they cannot resist. The term "irresistible impulse," however, I am aware, includes those impulses which lead men to commit homicidal, and, in some cases, suicidal acts, but in a majority of such instances the irresistible impulse is founded on a delusion. Many men who we credit with having great minds, are sometimes subject to these irresistible impulses and tendencies, which they certainly do not control.

Take the case of a man who has grown up in the community and has learned to drink, or of a man who has formed licentious habits; they do not necessarily indicate disease. Because a man does not represent a high ideal of moral development, we cannot consider his case from a standpoint of disease, if surrounded by ordinary circumstances, but there are persons who, from the earliest period of their lives, have a condition which prevents the full development of their moral qualities, in which we find intelligence, but in which a higher species of development of the mind is not apparent, in which the moral idea is defective and remains so through life. A majority of these people, I believe, are hereditarily defective, and these tendencies show themselves in the later periods of life, when, although the person may thoroughly understand the difference between conventional right and

wrong, may develop the lowest possible moral tendencies. I think it should be recognized that we have among us individuals who are on this plane of development. You may convince a certain individual that punishment will follow the commission of crime, but if that individual persists in performing such acts, it is more a matter of policy, than it is a matter of morality with him, because he has no moral development; and we often see this tendency in an early age, where brutal propensities are developed. Now as to what should be done by the community with such people is entirely another question.

Certainly the fear of punishment may go a good ways in deterring a man, but it has no effect on his morals, but merely on the purely animal propensities, and it seems to me that we have a very grave question before us, as to what we ought to do with such people.

That class of men are certainly dangerous to the community, but the question is how shall the community be protected from these people—shall we destroy them or place them in an institution for life? It seems to me to be a mental condition in which the moral faculties are in an undeveloped condition. We have a brutal disposition, brutal because it lacks the morality of the average human being; consequently such individuals should be kept apart from the community. A homicidal act may be committed by persons laboring under acute forms of insanity which certainly result in recovery; individuals who never show such a tendency again; but cases where we cannot trace hereditary tendencies of a similar nature, or where, from infancy up, the person has shown these peculiarities, it seems to me that they should not be destroyed, but that society should protect itself by confining them in suitable asylums for such people.

Now, as to the dividing line between sanity and insanity, we have none. We may choose an arbitrary standpoint, but nature never makes any line between the two. It seems to me, there always will be difficulty in determining these

points; and no matter how we may fix the law, decisions must be rendered according to the facts of each individual case.

Richard B. Kimball: If we are not wandering altogether from the subject, we are certainly getting a good way from it. The more I consider the question—I am speaking of the President's able paper—the more it seems to me to bristle with difficulties; that is, when we propose to disturb the law which defines what sort of persons shall be subject to judicial punishment for crime or misdemeanor. There need be no dispute between the medical and legal gentlemen as to what insanity is. The lawyers may refer the whole matter to the alienists, and let them explain all about insanity to the border line, as they term it, and as much further as they choose to go, even to the pronouncing ninety-nine men of a hundred insane, as some have done. But we cannot permit these learned experts to disturb by their theories the carefully considered statutes which declare who shall be held responsible for their acts, at least not until a better law is formulated and ready for acceptance. A great deal of discussion has been going on lately, to little or no effect. The important question is, if the present statute is repealed where will you mark the line between responsibility and non-responsibility for actions and conduct? It is easy to pull down, are we ready to rebuild? It is, no doubt, true that a person may commit a crime knowing it to be wrong and contrary to law, and be aware of the consequences, yet be, in a sense, insane. The wife of one of my college classmates was addicted for years to petty thieving. Her husband knew nothing of it till by chance he discovered two or three trunks filled with miscellaneous articles of every description, articles of not the least use to the lady and which she never did use. She was in other respects a most exemplary wife, and made for her husband, who was in easy circumstances, a happy home. Now, she was certainly insane in that particular. Suppose this person

under certain explicable circumstances had committed homicide. No doubt, let us assume, existed about her knowing the wrongfulness and illegality and consequences of the act What is to be done with her, if she is to be tried by a jury, or rather, commission, under the new dispensation, for she must certainly be declared insane, in view of the particulars I mention. Is she to be sent to an insane asylum, when she is as much deserving of the legal penalty, and as sane with regard to the crime as a human being can be? I repeat, the subject bristles with difficulties.

I beg, gentlemen, to understand that I consider this subject a most important one. I am ready to accept any wise modification of existing statutes on the subject, but I deprecate any flippant discussion which looks toward a violent disruption of a carefully settled law. Let us rather turn to the consideration of any proposed amendment which shall better define who shall be held responsible for criminal acts committed.

I take pleasure in stating to the Society that a late number of one of the German periodicals devotes considerable space to a resume of the papers read before this Society and published in THE MEDICO-LEGAL JOURNAL, from the pen of Von Krafft-Ebing. I think it should be a matter of satisfaction to this Society that our transactions are subject for comment in the European press.

EX-CHIEF JUSTICE SHEA: Mr. President—The notes which I have been taking are not for the purpose of furnishing any suggestions of what I shall say now. It is not possible to deal with this subject in any such conversational debate as that which alone is permissible upon such an occasion as this. However, I will say that all persons who have professionally observed the course of the administration of justice—as some of us have for thirty years or more—must have some conceptions which are pertinent to the subject of the papers which we have heard read this evening. For myself, I have long been of the opinion—founded not with-

out experience—that the common law, in relation to the responsibility of human being, for human conduct, discredits civilization. Whether a person is unsound in mental controlment, or is insane to such a degree that it is unjust to hold him responsible; in either of such instances it would be adverse to the principles of jurisprudence and the object of legal punishment to allow the law to take its usual course as in cases of criminal malefactors. For the object of punishment is penitential, where the evil-doer can be reclaimed; and the life of the criminal is taken only where the heinousness of the offence declares a depth of malignant intent beyond the power of reformation, and so that the criminal in a special degree endangers the safety of the community. To take life in any other than such a case is always a mere sacrifice to unreasoning and ignorant prejudice, and the object of punishment is not attained. The Common Law—not general jurisprudence—has always had a rule in reference to the responsibility of human beings for those human actions which affect the interests of the community. The law of right reason, however, has no such rule; the law for probate of will, has no such rule. In the law concerning competency to control that which is property there can be no fixed rule as to legal competency. Yet, whenever the Common Law deals with human accountability as to acts which the law of crimes punishes, it is that law alone which proclaims a fixed rule—an imperative maxim.

Mr. President: It is the Common Law that has a rule. Science itself is progressive, is ever on the inquiry, and, therefore, has and can have no fixed rule. So that it is in medical science, and it should, therefore, be likewise in law, a question of fact whether a person accused is insane; and, like all other questions of fact, to be determined upon the evidence and by the verdict of a jury. Where the Common Law rule came from I know not. Little doubt it grew from some unfortunate precedent, not from any principle of general jurisprudence. In England, a senseless and harsh treat-

ment has ever surrounded, in former times, the insane. The history of its old mad-houses, and, indeed, of our own, is no credit to intelligence nor humanity. The madman was too often dealt with as if he were capable of self-control, but by great exertion of will; and he was imprisoned, beaten and maltreated as if the misconduct was due to viciousness and wilfulness. This has been changed, but the Common Law rule still endures.

In the letter of Mr. Justice Matthews, which we have heard read this evening, he speaks of persons who are insane partially. I cannot understand that notion of a partial insanity. I can understand how there can be a collection of stagnant matter in some particular locality; but I know that the arising malaria spreads over the whole district. If we are to speak of the source of that malaria as local and partial, we are intelligible; but to speak of that malaria as of that spot alone, is not correct. A lame man is lame whether walking or not; the lameness is always with him—but the infirmity shows itself only when he moves. So people that are insane on one subject are always insane; the insanity shows itself to the observer only when the will affects that particular exciting cause; and that local infirmity subjects often the whole system of the unfortunate person.

We can use this illustration for a further aid. Where is the faculty in the mind itself that can be educed to prevent a morbid disposition toward the thing which excites the abnormal state. We are able to restrain a person from moving about if he is not willing to be quiet of his own will; but where is there a faculty in the mind—for the mind is beyond the physical control of other persons, and herein must minister to itself—which we can bring to our aid. I know of none but that of early *charactered* habit. Therein lies the great benefit of a practical moral and religious early education, founded in habit, and not mere intellectual culture. That great moral education is found alone in the well-ordered and religious household—a father's example

and teaching: a mother's love and inspiration. The school-room is secondary and subordinate to those natural influences. Sir James Mackintosh has observed: that however correct our thoughts, we act according to our habit. Teach even the infirm mind good habits, and erratic thoughts are not likely to mislead; the force of habit is a stronger and second nature.

Mr. President: It is not possible to give to any thing a suitable name till its nature is first discovered. You learn its "local habitation," then impress upon it its name. Adam —the primeval parent of all—is distinguished above other human creatures by the innate knowledge which made him capable of writing upon all animal nature a name descriptive and which distinguished the particular thing in its kind. To fallen human nature that innate knowledge is not continued. We learn by the "smart of experiment"—we cannot "see consequents while yet dormant in their principles." Intuitive knowledge comes to none of us, to supersede the labor of learning; to us comes not the hidden nature of things without the efforts of experiment. For which reason, Mr. President, we must be content in the infancy of the science of medical jurisprudence, to use inadequate expressions, such as moral insanity, uncontrolable impulse, and so on. When we clearly understand the subject of this abnormal state of the human will, then we can impress on it a competent title. We know that which is not sound, by contrasting with that which is sound. We must study the subject of insanity by first learning the science relating to sound minds. This study solely of the attributes and conditions of unsound mind, is beginning our inquiries at the conclusion and not at the commencement. Here is where the erudite and enlightening paper of Dr. Carnochan is so valuable and pertinent. When we have localized; when we have found the habitation; then a proper name will occur to us. I read in one of our morning papers that Bismarck says that this subject has made no advance in 2,000 years. It certainly

has little advanced in profitable, intelligent knowledge, how to deal with unfortunates who, not through wilfulness, commit acts dangerous to human society. I recollect going many years ago, with that eloquent forensic orator, Ogden Hoffman, to see that marvellous actor, Rachel, in the Phaedra. The metaphysical purport of that drama was quite apparent to us both. It was to body forth the idea that human beings were subject to uncontrolable impulses, which drove to the perpetration of dreadful acts; the evil and detestable nature of which, it was shown in that drama, none could feel more, even at the moment of commission, than the criminal herself. It was the Greek idea of Destiny. It was told in that superb dramatic exposition, wherein a mother, overwhelmed by the keenest sense of the unnatural crime she sought to effect, was incapable to restrain the demoniac predilection which was driving her, as by the Furies, towards destruction.

Mr. President: I have wandered on, into a theme which would keep us here a very long time if I permitted myself to enter further towards any comprehensive discussion of it. One word more. Let us keep in our minds the purpose of legal punishment. That will be a guide-post and land-mark for us on this subject. When a person is by law put to death, unthinking people say he has his just punishment. It is a misuse of thought and words. That is not punishment at all—it would be only retaliation. A thing the law does not attempt—for what retaliation could there be in the death of a dangerous felon for the life of his victim, perhaps a good citizen? Is it not a poor expression of the object of the law to speak of capital punishment? By punishment the law purposes not only a warning example to society, but the correction, if possible, of the offender himself. So that, when a criminal is cut off by the infliction of death, the object of all punishment is also then cut off, and the safety of society and the example to it alone considered. But when an exemplary warning is given and the penitential

opportunity provided for the offender, then the word lawful punishment has received its appropriate meaning. To put to death an unfortunate, who is not morally and clearly an accountable human being, affronts all notions of justice, and does not assure the security of civilized life.

Dr. J. A. Irwin remarked, that not having had the advantage of being present when the paper was read, he was unable to add anything to the discussion of it, but a point had just been raised as to the meaning of a term in common use among forensic psychologists which seemed to him worthy of a moment's further consideration, seeing that in a subject so obscure a clear and well defined nomenclature was of the first importance.

Mr. Foster had asked the meaning of the expression "irresistible impulse," and had been answered by a gentleman whose definition could not be accepted as satisfactory, since it confused an "irresistible desire" with an "irresistible impulse"—conditions of mind which should be clearly differentiated in measuring legal responsibility.

A *desire*, whether or not so strong as to be correctly termed irresistible, has always in view an end or gratification of some sort. It is so with the dipsomaniac and kleptomaniac. It is so in the crimes just alluded to, as in the kindred and still more detestable ones of cunnilingus, irrumare, fellare and coprophagia; and thus in each case there is some responsibility, although in many instances it would be unjust to estimate it from the standard of normal intelligence and physique.

An "irresistible impulse," on the other hand, is the very essence of entirely irresponsible insanity. It is an unreasoning, unaccountable condition of mind which, without motive or expected pleasure of any kind, impels, even constrains, to some other desperate action.

For example, to kill a person whom one hates, or by whom one has been injured, may be the gratification of a *desire* so powerful, that opportunity offering, it was, for the moment,

beyond the control of an ill-regulated mind; none the less the pleasure is enjoyed, the penalty is incurred, and should be inflicted. On the other hand, a murderous assault, by a previously respectable individual upon another who was a stranger to him, who had given him no provocation, and from whose death he had nothing to gain, can only be regarded as the outcome of the irresponsible and irresistible *impulse* of a lunatic.

Dr. Irwin expressed dissent from the views of the learned Judge who had just spoken, that erratic tendencies in the insane were usually the result of previous indulgence or ungoverned thought. Every physician of experience could cite numerous examples to the contrary.

The discussion paper of John M. Carnochan, M.D., entitled "Cerebral Localization," was then taken up, and the same was discussed by Wm. R. Birdsall, M.D., Dr. Carnochan, and the President; we give the latter entire:

The President, Mr. Clark Bell: It has occurred to me that it might be of interest to the members of the Society, in the discussion of Dr. Carnochan's paper, to group some of the results of modern scientific research, as they are at present claimed, regarding cerebral localization.

Dr. Carnochan, as I understand him, assents to the theory and classification announced by Gall, of dividing the brain into regions, generally limited by the dividing furrows or fissures of the several lobes.

With the exception of locating procreative activity in the cerebellum, Carnochan claims that the earlier classifications of Gall have been verified by modern scientific discoveries and studies. These, as stated by Carnochan, were: that the intellectual and perceptive group of faculties are located in the convolutions of the frontal lobe: the affective organs and the animal propensities in the posterior lobe, and in the lower range of the middle lobe; the moral and æsthetic functions in the upper and coronal portions.

Carnochan gives us the localization in detail, of general sensibility, locomotion, the motor and reflex centres of, respiration, smell, hearing, sight, muscular action of the face and its organs, which are carefully located, in this interesting paper, as also the pathology of the brain by its nervous centres, and the nerves, which are the means or medium through or along which the mind acts in the varied described relations. He identifies functional manifestations, with defined nervous tracts or cords, connecting the gray portion of the brain with the different nervous centres, upon which recent pathological investigations of the anatomy of the brain have thrown a flood of light.

He claims that the convolutions, on the general surface of the cerebrum, are the seat of the intellectual, reasoning and emotional faculties, without claiming to divide or locate them, in particular detail.

We do not understand Dr. Carnochan to agree with Ferrier, as to the location of the motor regions, in the ascending frontal and ascending parietal convolutions, of the fissure of Rolando, in the discussion of the cortex and its relation to mental action, or to pass any opinion as to the different views of Meynert and Hugenin, but we understand him to concur with Betz, of Kiew, that the postero-lateral regions of the gray cortex are the seat of sensibility, which he claims, are defined and fully localized, and to accept Charcot's dicta that this assumption is based upon careful anatomical and pathological research and study. The encephalon is claimed as the location and seat of intelligence, and he asserts that the gray cortex of the cerebral convolutions, as a whole, compose a bundle of nervous centres through which the mind operates and develops the mental faculties and perceptions.

The general proposition of Dr. Carnochan is, that the brain is the organ of the mind, composed of an aggregation of organs, all working in harmonious action, each functionating its particular mission and work; and that it remains for science to continue the researches with such careful

study, as to fully complete the localization of every function, nerve and tract of the brain. Meynert may, we think, of the modern writers, justly claim to be the author of the idea that the brain does not act as a whole, but that different portions exercise different powers, functions and faculties.

The German and English students arrived substantially at the same general conclusion as Meynert, though by different methods.

The studies of those who are devoting their time to this branch of scientific research, are of profound interest, to both professions and to the whole realm of scientific study.

One of the methods of study is to carefully observe cases of disease, of any particular location of the brain, within a limited area, and their peculiar manifestations, and to corroborate the manifestations by *post-mortem* observations with greatest care.

Charcot and the French scholars have adopted this idea and method as their basis of labor, and have contributed to the literature of the subject, clinical cases, in which a limited area of disease of the brain, has given rise to definite and fixed symptoms, and in which careful autopsies have confirmed the pre-observed symptoms.

The principal students in this field of scientific observation have been Meynert, Fritsch, Goltz, Hitzig, Ferrier, Nothnagel, Exner, Wernicke, Munk, Moeli, Dalton, Jacobowitsch, Bischoff, Tripier, Vanderkolt, Kolliker, Petrina, Lockhart Clark, Charcot and Luys, and their observations have been clinical, as well as anatomical and pathological.

The clinical observation affords certain results, which may be deemed absolute, and to amount to practical demonstration. If a lesion exists in any defined portion of the cortex, which is the conceded region of the localization of mental processes, no matter how slight, it frequently affords, by its manifestations and the subsequent autopsy, almost positive evidence of localization of brain function.

Indeed, it is often the slightest lesion, *i.e.*, the smallest area involved, that gives the most satisfactory and least doubtful results. If the lesion is large, the variable symptoms prevent the exact localization of definite symptoms, which sometimes cannot be separated or discriminated.

If a lesion exists, and normal functions are undisturbed, it is negative, though absolute proof, that that locality is not involved in those functions which are normal; and by study it is fixed only on those faculties which respond to the inquiry by abnormal indications. This kind of investigation is now going on, by careful, conscientious, painstaking inquirers, and the result of their studies and observations are constantly given to the scientific world, on both sides of the Atlantic, in the scientific press.

Another method of observation, and none the less valuable and positive, is the anatomical and pathological study of the minute anatomy of the brain.

One of the ablest and most industrious students of this branch of study is Dr. Luys, physician to the Hospice de la Salpetriere, of Paris, and one of the editors of *l'Encephale.*

To illustrate some of the difficulties of this method of research, and to furnish even an imperfect idea of its delicate character, I quote from his work (The Brain and Its Functions, pp. 6, 7, 8,) as to the methods he actually employed for studying the brain and spinal cord in this direction.

He says:

"It essentially consists in the preparation of a series of sections made methodically, millimetre by millimetre, vertically, horizontally and antero-posteriorly; and these sections being thus made according to the three dimensions of the solid mass which was to be studied in reproducing them photographically, I set myself then to make a series of successive horizontal sections of the brain previously hardened in a chromic acid solution from apex to base at intervals of about one millimetre (less than one-twenty-fifth of an inch) as perfect as possible; each being in its turn reproduced by photography.

"I made then similar sections of the brain in a vertical and antero-posterior direction, and at regular intervals from behind, forward.

"These operations having been thus regularly conducted, this method enabled me to have representations of the reality as exact as possible, to

keep the natural relations of the most delicate portions of the nervous centres each by each, according to their normal connections, and, in fact, without deranging anything. Then by comparing the sections horizontal or vertical, one with another, I could follow a given order of nerve fibres in its progress, see its point of origin and its point of termination, study the natural increase in complexity of the different kinds of nerve fibrils, millimetre by millimetre, changing nothing, lacerating nothing, leaving everything nearly in its normal position.

"By means of these new photographic methods, perfectly precise and impersonal, I had then only to register the details of the sun's printing, and by placing the prints in juxtaposition, to make a single synthesis of the multiple elements of the analysis I had thus obtained by the automatic co-operation of the sunlight.

"The cerebral topography thus being definitely fixed and traced by this process, the regions of more delicate texture, the special points which it was necessary to study in their minute elements, were further sufficiently magnified, and then reproduced with successively increasing magnified powers.

"I could thus make visible to the naked eye, and exhibit on a plan, details of structure which up to that time had only been seen in isolation under the microscopic tube.

"And it is by this means that the observer is enabled to penetrate from the known and well defined regions, to those which are not so as yet, and can familiarize himself with the very details of the minutest structure of the final nerve elements."

One unfamiliar with these studies can hardly appreciate the wonderful delicacy of these observations, and yet must be forced to admit their marvellous accuracy, and how near we are coming by the aid of science to the solution of the remaining problems of cerebral localization.

In the last number of *l'Encephale*, (No. 5, 1884, September and October), received since Dr. Carnochan's paper was read, Dr. J. Luys contributes an original article, entitled "The Researches Upon the Structure of the Brain and the Agency of the White Cerebral Fibres," which was read before the French Academy of Sciences, in which he makes some important statements. He announces that the student of this branch of science is greatly dependent upon, and indebted to, the chemists, who have furnished him means with which to proceed with his researches, which preserves the tissues to be examined so perfectly as to enable him to make the in-

vestigations complete, and he names the chemical agents which have so wonderfully contributed to the success of his labors. Bi-chromate of potash, phenic acid and a preparation of alcohol, which not only preserve the nerve fibres intact and the color, but which isolates and hardens them so that' as he claims, he is enabled with ease, to trace each one from its base to its termination, he also states that by this method of investigation, and with these improved agents and aid, he has been able to obtain far more precise results than any he has hitherto realized.

He then describes in minute detail the cerebral nerve fibres, which he exactly locates, and particularly divides into three distinct and separate groups, which are carefully traced and illustrated by diagrams and photographs.

It is not necessary here to give the details of this remarkable contribution to the minute anatomy of the brain, but it will well repay a critical examination by any one desirous of seeing the latest discoveries of this character by this remarkably intelligent and painstaking observer.

Another method of investigation, certainly of great value, should be noticed in this connection. That which is known as the atrophy method, discovered and announced by Prof. von Gudden, which was, however, not published till 1871, though known to him and many of his pupils for many years before, and the discoveries of Prof. Augustus Waller and his investigations in the study of the brain by observations of the degeneration of the severed nerves. It is true that Waller knew of the leading facts of degeneration and regeneration after nerve section, but his experiments have thrown great light on the subject, which he published in 1852, in his "Nouvelle Methode Anatomique," Bonn, 1852.

These observers, von Gudden and Waller, pursued their investigations apparently without knowledge of each others labors.

Their method was by excision of portions of the brain, in newly born animals, like the rabbit, dog, kittens, &c., at or

shortly after birth, and then to study the results both by atrophy and by degeneration of the various nerves, in relation to which the operation was conducted.

These experiments were made by careful microscopic observations and measurements of the parts, the organs treated by chemical processes, from sections made by the microtome, as in the methods alluded to by Prof. Luys.

The studies under von Prof. Gudden's method were pursued by many of his pupils, Gauser. A. Forel, of Zurich, (*Wiener Med. Zeitung*, No. 46, 1881); Mayser, (*Westphals Archives für Psychiatrie*, Bd. vii., Heft. 111, 1877); C. von Monakow, of Pfäfers, (*Westphals Archives*, Bd. xiv., Heft. 1).

A very complete and detailed account of these methods, and their results, may be found in an elaborate paper by Dr. E. C. Seguin, in *Archives of Medicine*, 1884, pp. 126, 235.

In briefly noticing these methods of study and the sources on which scientific reliance for future discovery confidently rests, it is not surprising that at present differences of opinion and conflicting results, or apparently so, are obtained by these different observers and methods. The claims of such observers as Luys and his confreres are not fully accepted by all, and even that experienced and astute thinker, Dr. John Charles Bucknill, does not hesitate to assail his alleged discoveries (vid *Brain*, October, 1882, p. 375), and to charge that he does not mention or credit cerebral pathologists and photographists, notably Dr. Deecke, of Utica, N. Y.

Another method is to examine the fresh brain of the chronic or other insane, to discover what, if any pathological changes can be detected in the structure, in the ganglion cells of the convolutions, and to mark and define such as are found, to ascertain their relation to the insanity with which the patient was affected, and generally to study how far, if at all, the structure of the nerve elements is affected, or can be traced to the particular form or type of insanity involved.

This study involves the same careful examination of

brain tissue in sections, by aid of photography and with microscope, as has been previously alluded to. These investigations, and indeed all studies of the brain of the insane, can best be done, as a rule, in asylums, as materials can best be found there, and facilities should be provided.

Dr. Theo. Deecke, a special pathologist on the staff of the State Asylum at Utica, has been a careful student of the anatomy and pathology of the brain, and has pursued this branch of scientific research to considerable extent. For such purposes, he claims that the best results can be obtained from fresh brain tissue, examined immediately after death.

He has constructed a powerful microscope, described in the Journal of the Royal Microscopical Society, which he claims was made necessary for the examination of sections of 1,400th to 1,600th inch in thickness, and upwards of 6 inches in diameter, thus cut and prepared by aid of a microtome.

For purposes of examination of the structural and anatomical changes just named, he prefers, for microscopic examination, sections cut with a sharp knife, kept wet with water, to which a small quantity of glycerine has been added, which he claims can be cut sufficiently thin and transparent, to permit the use of all higher magnifying powers applicable to histological investigations of this character. His object being to leave the sections of the brain, as near as possible, without change of any kind, and avoiding the use of any agent which, by chemical action of any kind, could be suspected of producing any change whatever in the tissue. He claims that by this method of observation the ganglion cells and nerve fibres in their normal appearance and position are brought to view with great distinctness, and can be clearly and exactly traced, and that the nuclei and nucleoli of the cells can be clearly pointed out, as also the roots at the base of the cells and their origin.

He also states that by soaking the sections in a carmine solution with glycerine, the minute structural formation will

take up some portion of the coloring matter, which aids the search without injury to the structure. (*Amer. Jour. of Insanity*, July, 1881).

This method is doubtless valuable, and may lead to important results, and it is hoped will be continued at our various asylums by careful observers throughout our own country. Dr. Deecke, however, is understood to doubt the practicability or value of reseach in this domain as to the localization of cerebral disturbance in cases of insanity.

Among the American workers and observers of section microscopical tissue, aside from those already named (Dalton and Deecke), there are several who have devoted attention to certain branches and are worthy of mention. Dr. John Mason, formerly of this city, and now of Newport, Rhode Island, has made valuable contributions to the knowledge, publishing photographical reproductions of sections of the spinal cord of reptiles.

Dr. Putnam, of Boston, a pupil of Meynert, Dr. Edes, late president of the American Neurological Association, and Dr. Webber, are investigators and contributors. Dr. C. K. Mills, of Philadelphia, Dr. Miles, of Baltimore, Dr. Clevenger, of Chicago, Dr. Schmidt, of New Orleans, Prof. Burt G. Wilder, of Cornell, Prof. W. B. Scott and Prof. H. F. Osborne, of Princeton, and Dr. J. C. Shaw, of Brooklyn, have also been students and observers of section microscopical work, some of them in connection with the brain and spinal cord.

In this city, Dr. Charles Heitzmann, Dr. E. C. Seguin, Dr. W. R. Birdsall, Dr. W. R. Amidon, Dr. W. J. Morton and others have devoted attention to microscopical section work of the brain, and published their labors, but I have not been able to find any original contributions to the literature bearing upon cerebral localization, though we have several talented physicians who, while not doing original work themselves, are careful students of the work of those who are, and have given students of the science the benefits of the observations and original labors of the foreign observers, which are of value.

Dr. Birdsall, a pupil of Meynert, made an early contribution, while in Vienna, upon the development of the sympathetic nervous system, in which he claims to demonstrate that it was not an independent system, as had been formerly supposed, but was an outgrowth of the ganglia of the cerebrospinal system. He based his discoveries and views upon examination of some of the sections of the brain in man and animals, carefully studying the whole series.

Facts are one thing and theories another. The theory of Dr. Luys and others is that the mind is merely the product of the physical and chemical activities of the cerebral molecules, which is combated by Wundt and others opposing this view.

Prof. Scott, of Princeton, has ably written on this subject, under the head of *Cerebral Physiology*, (*Princeton Review*,) in which he reviews the whole pathology of the brain, and cites the recent experiments of Carville, Charcot, Carpenter, Duret, Goltz, Fritsch and Hitzig upon the brains of animals and men. He lays great stress upon the researches of Goltz, as to their bearing upon this question. But aside from these discussions and differences of views, science must continue its search after light based upon demonstrable facts. We must accept what she positively teaches, not what we think she teaches, or what we believe she does. The search is after facts and demonstrations, not after this theory of one observer, or that theory of another.

By comparing the clinical observations contributed by foreign students, after analyzing and classifying them, with those reported in the American cases, we can reach such conclusions as have amounted, in the opinion of many scientific men, to the point of demonstration, as to cerebral localization, so that it may be fairly claimed, as has been done by Dr. Carnochan, that the surface of the brain is the undoubted seat and location of all conscious mental action, that the intellectual faculties are undoubtedly situated in the frontal lobes of the brain; that disturbance of sight, hearing, smell or

more general sensations, as well as the power of voluntary movements of the body, are now believed by many students to be well defined and located, so as to be distinctly and definitely traced—for example, disturbance of sight, in the occipital lobes; of hearing in the temporal convolutions, and if in one ear only, then of the opposite side of the brain—of smell in the tempero-sphenoidal region in the base of the brain; of general sensation in the cerebral convolutions if of pain; while voluntary motion seems to be located in the two central convolutions which border the fissure of Rolando; the various portions of the body having each a location there, and relating to the opposite side of the body in their action.

The best analysis we have seen of the clinical cases bearing upon these questions, of the American cases, is that contributed by M. Allen Starr, M.D., to the *American Journal of Medical Science* entitled "Cortical Lesion of the Brain," (pp. 366, 114, April and July, 1884.)

The Society is greatly indebted to Dr. Carnochan for his very valuable and excellent paper. The question involved and the discoveries of the next ten years even, will probably materially enlarge the domain of this inquiry, and its full solution may be nearer us than we now imagine.

It is a study that on its pathological and anatomical side can only be pursued by students who devote themselves wholly to it, and with aids not within the reach of the ordinary inquirer. This makes the recent munificent gift of Mr. Vanderbilt all the more important to science, as it will enable the college, if it sees fit, to place our American students, so far as laboratories and clinical advantages go, on an equal footing with the best schools of Europe, and one which, I do not doubt, the College of Physicians and Surgeons will utilize to the fullest extent.

Mr. Richard B. Kimball offered the following resolutions:

Whereas, William A. Beach, a former member of the Medico-Legal Society, has departed this life:

Resolved, As the sense of this Society, in addition to his great legal attain-

ments, that his dignified demeanor, his conscientious and honorable course of procedure, his courtesy, his marked respect for the bench, coupled with an extraordinary independence of judicial influence, afford an example to be imitated by every member of the profession;

Resolved, That a copy of these resolutions, certified by the secretary, be sent to his widow, with the expression of our condolence.

which he supported with remarks as follows:

William A. Beach was, in the truest sense of the term, a great lawyer. He was born and brought up in Saratoga County, and was admitted to practice in 1832. At that period the bar of Saratoga was, in proportion to its members, the most brilliant in the State, and the attendance at its circuit court embraced the most eminent lawyers from the counties of Albany, Rensselaer and Schenectady. At Saratoga Springs lived Reuben H. Walworth, Chancellor of the State; Esek Cowan, the great *Nisi Prius* Judge; John Williard, the learned Vice-Chancellor and Judge of the fourth judicial Circuit; Nicholas Hill, Jr., one of the ablest lawyers our State has ever produced; Judge Hay, Anson Brown, Judiah Ellsworth, Joshua Bloose, Judge Bates—all keen, able, noteworthy men in their profession; while on attendance at the circuit were Mark F. Reynolds, Sam. Stevens, Daniel Cady, John P. Cushman, Ambrose L. Jordon and other statesmen from the contiguous counties.

It was in such company and with such surroundings that William A. Beach drew his first legal inspirations; and it was with these men, when admitted to the bar and commencing the trial of causes, he found himself confronted. He was much the junior of even the youngest named, but he started into professional life with the determination to try his own cases, no matter who was his opponent. How well I remember him at that time! I had myself just commenced the study of law at Waterford, in that county, with John K. Porter as an intimate friend and fellow-student; a student attending the circuits, as we had the pleasure of doing, I used to regard with the most intense admiration the contests of young Beach with the sharp, keen, hard-headed and quick

witted lawyers I have mentioned. It was a charm to see him, and we boys—Porter and myself—were proud of the work of a young man in whose footsteps we hoped soon to follow. Mr. Beach some time after removed to Troy, and soon was retained in all the important cases of that section. About thirty years ago he came to this city, where his fame had preceded him. The important cases he was engaged in are matters of legal history, and need not be referred to here. As an advocate, embracing all the best qualities which should adorn his profession, I am not prepared to say I ever heard his equal. He indignantly rejected all trick, craft and chicanery in the trial of a cause. As an advisor, he was conscientious and considerate. As an advocate, who can forget his dignified demeanor, his unvaried courtesy, his marvelous process with a dishonest witness, his eloquence, his marked respect for the Court, coupled with an independence of judicial action which often frightened the younger lawyers who had retained him? With what a look of incipient rebuke he would regard a judge who had made a ruling he believed to be erroneous, a look coupled with an expression as if he must have misunderstood what was just announced! Mr. Beach was one of the most successful lawyers of the land, and at the same time one of the most honest. The Court, when he stated a matter of fact as within his own knowledge, accepted it unconditionally. Mr. President, William A. Beach came fully up to my idea of what a great lawyer should be. He was honest, he was conscientious, he was eloquent, he was profoundly learned in the law, he was devoted to his profession, he was kind of heart and merciful in his nature. He was one of the few men I really loved.

The Chair paid a tribute to the memory and distinguished services of ex-Judge Wm. A. Beach, and the resolutions were unanimously adopted. The Society, by unanimous vote, authorized the President to execute a contract in its behalf, providing for the placing of the Library in Columbia

College, and providing for the meetings of the Society to be held in the College-rooms. Upon the recommendation of the President and Executive Committee, the discussion of the Rhinelander case was postponed until after the decision thereon by Recorder Smythe. The Society adjourned.

E. H. M. SELL,
Secretary, *pro tem.*

THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

Nov. 19, 1884.—Meeting held at Columbia College, minutes of previous meeting read and approved. The following gentlemen were elected active members : Prof. Geo. Wilkins, McGill University, Montreal, Canada; Prof. John North, Keokuk, Iowa ; Thoms B. Porteous, Esq., Oil City Pa. ; Joseph Jones, President Louisiana State Board of Health, New Orleans, La. The following gentlemen were elected corresponding members : Prof. T. G. Wormley, Philadelphia, Pa.; Geo. H. Savage, M.D., Bethlem Hospital, London; Prof. Dr. J. Lehmann, Copenhagan, Denmark ; H. E. Desrosiers, M.D., Montreal, Canada. Letters were read from Prof. Dr. H. Kornfeld, Prof. Dr. Franz von Holtzendorf, Geo. H. Savage, M.D., Prof. Dr. J. Lehmann, and Prof. T. G. Wormley, to the President, and placed on file.

Dr. H. Kornfeld, Prof. von Holtzendorf, W. H. Sankey, M.D., and Prof. Von Krafft-Ebing, donated copies of works by themselves to the Society.

It was moved and carried that the Chair refer these works to members, for appropriate review and notice.

Contributions to the Library were announced from Joseph Jones, M.D., J. C. Thomas, M.D., Clark Bell, Esq., E. N. Dickerson, Esq., E. H. M. Sell, M.D., W. R. Birdsall, M.D., Joseph Deecke, M.D., Prof. Krafft-Ebing, Prof. Dr. Kornfeld, Dr. W. H. O. Sankey, of London, and others.

The special committes were called on Constitution and

By-laws, proposed to amend section 9, article 5, by striking out of the section the words, "shall have charge of the general business management and financial transactions which shall affect the welfare and standing of the society; and they." Also all the last clause of the section, "and said trustees shall make and execute all contracts and agreements in behalf of the society on instruction therefor by the society or by the executive committee, and perform all other proper duties usual to the office of trustees of similar societies."

On motion of J. E. McIntyre, the Committee on Canned Goods Poisoning, previously appointed, were, on motion, unanimously discharged from the consideration of the subject.

On motion the Chair was directed to appoint another committee on the subject of canned goods, to investigate the same and report to the Society, and to confer with any committee named by the trade in respect thereto. The Chair announced that he would name the committee hereafter.

On motion, the Secretary was directed to notify the chairmen of the various select committees that they were expected to report at the annual meeting in December.

The Executive Committee reported unanimous action recommending the amendments proposed by the committee. Report of committee accepted and adopted. The motion to amend sec. 9 of art. 5 of Constitution, as recommended by the committee, was laid over by the Chair till the December meeting, under the rule.

Dr. L. Tucker Clark read a paper entitled "Organic Disease of the Brain not a constant factor in cases of Insanity."

Dr. J. A. Irwin, at the request of the Chair, read a paper sent by Thos. Stevenson, M.D., of Guy's Hospital, London, on "*Poisoning by Canned Goods*," which was discussed by Dr. Irwin and Prof. W. B. Scott, of Princeton.

Short papers by Dr. Buckham and Dr. R.L. Parsons were read.

T. R. Buckham, M.D.—On Mr. Clark Bell's paper, "Madness and Crime."

Dear Sir: I have read with much interest the advance sheets of the very able paper you read before the Medico-Legal Society of New York on the 24th ult. The cases presented, especially the English ones, with your remarks thereon, show conclusively the inability of the law as it now exists, and with the present modes of procedure in its administration, to prevent itself from being the instrument of the grossest injustice—that of condemning to death those whom it declares not liable to punishment by reason of insanity. Is there anything further necessary to arouse legislators and judges to the importance of the crying demand for such amendments as will prevent the law, which ought sacredly to guard the right, from being itself the cause of injustice, and of the gravest of crimes? Fully concurring in your statement (page 26), "There is no doubt whatever that the uncertainty of verdicts is largely due to the popular conviction of the injustice of the law as it now exists, and as it is frequently construed by the courts," the question then arises: What are the changes necessary to give the people confidence in the law, and to make its verdicts reasonably certain in insanity trials? Not being a lawyer I will not attempt to fully answer that question, but will suggest a few amendments, that from a medical standpoint appear to be indispensable. (*a*) *Using only "experts" (in the strict signification of the term) as expert witnesses. (*b*) Abolishing the irrational and absurd practice of having "hypothetical cases." (*c*) Requiring expert witnesses to *personally* examine and carefully watch the suspected or alleged insane persons for a sufficient length of time, and under the most favorable circumstances for such examination and observation; then have them testify or depose *directly* to the question: "Is the person at bar sane or insane?" (*d*) Experts should be summoned or subpœnaed to give testimony "in behalf of the Court." Experts being required, only that they may reflect "the pure light of science" for the information of the court and jury, they ought not, even by implication, much less by direct statement, to be partisan, hence, they ought to be subpœnaed, by the court, in behalf of the court, and not in behalf of the "prosecution" or "defence," and (*e*) when before the court the expert witness should be permitted to testify or depose *uninterruptedly* until he had fully stated his opinion, then hold him liable to examination and cross-examination on said statement or deposition. When giving testimony, if required or permitted to only answer such questions as are put to them by counsel, experts are very rarely able to convey their complete opinions; and not infrequently the disjointed views elicited by questions which interrupted the logical sequences in the witness' mind, besides leaving many most important points untouched, lead to conclusions

*For a full expression of the reasons adduced in support of the proposed amendments to the law, see the writer's work, "Insanity Considered in its Medico-Legal Relations," chapter "Experts," pp. 121—220.

so different from those that would have been reached had the witnesses been allowed to arrange and present their opinions connectedly, that they themselves are often profoundly astonished at the legitimate conclusions deduced from what they have said, and said correctly, in answer to the questions put to them. By such inexact expression, and under statement of their special knowledge of the case, instead of aiding the court and jury, the expert may be, nay, must be, made a source of positive injury—a cause of injustice, to exactly the extent that such erroneous evidence was an ingredient in the verdict rendered. The admirable "Review" of Dr. Savage, from which you quote (p. 9), shows that undoubtedly he believed Gouldstone was insane, but his testimony to that effect was not allowed, and (is the expression too strong were I to say?) THEREFORE *the law unjustly sentenced the lunatic to die the death of a felon.*

To a person outside the legal profession it is very difficult to perceive the *rationale* involved in determining that it is proper under the law, for one executive officer to exclude the testimony of expert witnesses, so that, on account of the want of such evidence, the alleged insane person is condemned to death, while it is proper for another executive officer, under the same law, in the same country, to annul the sentence passed, on the evidence of the same or similar experts, and on the same or similar evidence as that which was not allowed at the time of the trial by the other executive officer. When the existing law is so wretchedly faulty that in obedience to its requirement its administrators are compelled to UNJUSTLY *pronounce the sentence of death*, no other reason ought to be necessary for its prompt and thorough revision and amendment.

Another unsettled point, the *onus probandi*, although of much less importance than many of those to which reference has been made, ought to secure at least a passing notice. Whether the "burden of proof' of insanity rests upon the defence, as is generally held, or, whether the State is bound to prove sanity as well as guilt (after the presumption of sanity has been removed), as held by Cooley, C.J.,* and others, ought to be definitely settled. There are a number of other points to which I would like to call attention, but I find the limit as to length of this paper is nearly reached, and therefore, reference will be made to only one other topic suggested by your article.

Referring to the Guiteau trial (and here I write entirely from memory, as I have not time before the 30th current to either procure or examine authorities), Guiteau did not for himself, nor did his counsel for him, claim irresponsibility for his act on the *general* ground of insanity, but on the *specific* ground of "uncontrollable impulse" under the allegation that he was acting under the express direction of the Deity, whose instrument he was in "removing" President Garfield. Had it been established at the trial that he was under such coercion (the dictum of the ablest writer on Medical Jurispru-

* The People *vs.* Garbult, 1868, 17 Mich., 9.

dence, from the legal standpoint to the contrary notwithstanding),* I think the death sentence should not have been passed upon him. I claim, however, that not only was his allegation not supported, but that by his own statements, which statements, in important particulars at least, were known to be true, he was estopped from pleading "uncontrollable impulse." An insane impulse is either under the control of the individual, or it is not; if the latter, then the actor is not responsible. "I do not think that it is expedient that a person unable to control his conduct should be the subject of legal punishment."† Was Guiteau's impulse "uncontrollable?" Did he not state that he felt compelled to "remove" the President when, with his sick wife, he was promenading on the beach, but that the wistful, pale, wan face of Mrs. Garfield so excited his sympathy that he could not then, and in her presence "remove" her husband? *Id est, he did completely resist the impulse.* Again, he stated that he had intended to "remove" the President when at church, and was impelled to go to the church for that purpose; but, from the large number of persons there, he feared that he would have been lynched before he could place himself under the protection of the military. A second time he did control the uncontrollable (?) impulse, because he feared that he himself would be put to an immediate and a violent death. If my memory serves me correctly, he mentioned a third instance of similar control; but whether he did a third time or not is unimportant, because if he could control the impulse on one or two occasions, it was not "uncontrollable impulse." It is beyond question that a lunatic under an "uncontrollable impulse" cannot be turned from accomplishing his purpose by fear of, or sympathy for others, or from fear of consequences to himself. Therefore, as those considerations did divert him from his purpose at different times, his self-control, estopped Guiteau from pleading "Uncontrollabe impulse," and that having been the only defence presented to the Court, his sentence was just.

FLINT, MICH., OCTOBER 27, 1884.

R. L. PARSONS, M.D., on Mr. Clark Bell's paper, "Madness and Crime."

The question regarding the legal responsibility of insane persons, who commit criminal acts, is one not only of very great importance, but also, and confessedly, one of very great difficulty. For many years past the legal profession, and those physicians who have made an especial study of the subject of insanity and of the insane, have varied greatly in their views on the subject. This, however, is to be observed, that while the physicians have not at any time yielded in

* Sir James Fitzjames tephen. *History of the Criminal Law of England*, p. 160 (foot-note).

† Ibid, 171.

their views to the opinions of the lawyers and judges, they have not only added to their knowledge and strengthened their own doctrines, but they have had the gratification of seeing that some of the leading thinkers in the legal profession are gradually accepting their views as correct. Many lawyers, also, who cannot be said as yet to accept teachings which are at variance with long established legal doctrines, are, nevertheless, now willing to have a new investigation of the subject made. This is a cause of especial gratification to all physicians, who are interested in the study of mental diseases, as being a sort of assurance to them, that new light is likely soon to be thrown upon this difficult medico-legal subject, and that the legal profession is now ready and, perhaps, anxious, to inaugurate certain needed reforms in the mode of procedure in lunacy cases.

For many years past I have myself advocated the doctrine of a modified responsibility, as applied to almost all improper or unlawful acts of insane persons, and that the degree and character of this modified responsibility must be determined, especially for each case, by a particular study of that case. But this is not the proper occasion for a discussion of the doctrine of responsibility.

While it does not seem to me advisable nor desirable that such great and sudden changes should be made, as to outrun the measure of our present knowledge and judgment, it does seem a fitting time for the suggesting of such changes, as shall be found fully approved by experience, and by the best authorities.

In the absence of Dr. Philip Zenner, the President read his paper entitled "Functions of the Brain."

This paper and that of Dr. Clark were discussed by Jno. M. Carnochan, M.D., E. H. M. Sell, M.D., Simon Sterne, J. E. McIntyre, the President and others.

Dr. Heitzmann was asked to speak, and stated that he would present his views on the papers of this evening, and on Dr. Carnochan's paper on "Cerebral Localization," in a future paper.

Mr. Simon Sterne offered the following resolutions :

Resolved, That in the death of Friedrich Kapp, this association and the literary world have lost a wise and learned publicist, political economist and statesman ; and an industrious co-worker in the higher walks of medico-legal jurisprudence.

Resolved, That the services which Friedrich Kapp has rendered to the cause of the progress of the law during his twenty years activity as a member of the bar of the City of New York, from 1850 to 1870, are recognized by us as an important element in advancing the legal profession to higher standards.

Resolved, That his labors on the Emigration Commission are deserving of special recognition at the hands of this Society as a service rendered to humanity and this country in averting misfortune and disease from the newly arrived emigrant.

Further resolved, That a copy of these resolutions be forwarded to his widow in Berlin and to his daughters, Mrs. Paul and Alfred Lichtenstein, in this country.

Mr. Sterne made the following remarks :

Friedrich Kapp, who died October 27th, 1884, in the City of Berlin, was for many years before his death, pre-eminently known as a citizen of two hemispheres. He lived with us during his best adult years, from 1850 to 1870. Just before the outbreak of the Franco-Prussian war he returned to Germany, from which, by reason of his participation in the rebellion of 1848, he had been banished. The new National spirit which was realizing the dream of the German liberals of 1848—to amalgamate the German people into one nation and to have that nationality play the important role which its numbers, geographical situation, and phenomenal advancement in science justified—was then about reaching its fruition ; in a way, it is true, little dreamed of by the liberals of 1848, because the men who had been the most determined enemies of the master spirits of that revolutionary movement were then in the forefront of the battle to bring about the results for a united German fatherland which the revolutionists of 1848 vainly, and then perhaps chimerically, aimed to achieve.

Mr. Kapp is entitled from this association to this memorial acknowledgment of his worth, not merely because he was one of the most distinguished of our corresponding members, but also because of the nature of his work from 1850 to 1870 in the United States, during which period he did much to develop the spirit of scientific research in the law which finds one of its manifestations in the existence of this very Society.

Mr. Kapp was born on the 13th of April, 1824, at Hamm, in Westphalia. He pursued his studies at the universities of Heidelberg and Berlin, and practiced from 1844 to 1848 in the Courts of Hamm and Unna. In 1848 he took part in the September rebellion of Frankfort. In 1849, when the rebel-

lion was crushed, he fled to Paris, where he was a tutor at the house of Alexander Herzen, whose writings he translated.

Driven in June, 1849, from Paris, he went to Geneva, and in the beginning of the year 1850 emigrated to the United States, where he was admitted to the bar, and until 1870 devoted himself with assiduity and success to the pursuit of his profession. His early devotion to literature never deserted him, and his leisure moments were occupied in constant literary activity which resulted in the publication, from time to time, of books of recognized, even standard historical merit. His "History of Slavery in the United States," published in Hamburg in 1861 ; the history of "American Soldier Traffic by German Princes," which was followed shortly after by the more elaborate history of the "German Emigration to America," the first volume of which appeared in 1868, are among the more permanent evidences of his then literary activity, but this was but a small part of the services which Mr. Kapp rendered to American institutions by his residence amongst us.

He could well say with Charles Lamb, who, on passing a book-seller's shop window, and seeing the advertisement of "Charles Lamb's Works," stated to a friend, "This is a misnomer ; these are Charles Lamb's recreations ; his works are in the India office." Mr. Kapp's works were in the constant and active pursuit of his profession, in doing more than any other one man in the creation of a commission to take care of the emigrants who had, prior to Mr. Kapp's activity, been the prey of sharpers on their arrival in this country. The existence of the Emigration Commission was of immense benefit not only to the emigrant who came to our shores, by preventing him from being depleted and swindled on the instant of his arrival here, but also in promoting and stimulating immigration, by reason of the guardianship which hovered over the emigrant's first advent in a new country among a community, the language of which he did not understand, and which protected him until he arrived at the destination where he proposed to strike out for himself a new career under more advantageous circumstances than those which surrounded him in his mother country. The philanthropist who mitigates human suffering is extolled in literature and in song as a benefactor of his race. Much greater and of a much higher order and far-reaching consequences, are the services of a man who with statesmanlike instincts creates institutions to prevent the misery and the suffering which the philanthropist is called upon to cure. Of this character were the services of Mr. Kapp in the organization and in the promoting of the development of the Emigration Commission for the State of New York. Think of the condition of the poor emigrant before these services were rendered. He was put upon ships owned by people whose only desire was an immediate profit out of his transportation. He was ill-fed and ill-cared for upon the voyage ; he had no means to redress a wrong if injustice was done him. He had no one to appeal to when he arrived in this country, and when he came here he was beset by emigrant runners of disreputable boarding-house keepers, where

he and his family were subject to constant and unfortunately to often successful attempts to strip him of the little capital with which he intended to commence a new career in the United States. Thus instead of a useful member of society a pauper was frequently created immediately on his arrival in this country, embittered and hopeless because of the fraud to which he had become a prey.

All this was changed by the organization of the Emigration Commission, and thousands upon thousands of people who owe their success in life to the protection which was accorded to them at the moment of their arrival, are unconsciously indebted for their opportunities to better their condition in America to the services of Mr. Kapp.

Mr. Kapp, during the time that he was in this country, aided Professor Lieber in his politico-historical work, and Mr. Bancroft, Mr. Greene, and others in their historical researches.

From 1860 to 1870 it was my privilege to be on very intimate terms with Mr. Kapp. And my personal and social relations with him were to me a constant source of pleasure and intellectual profit. No man more sin erely than Mr. Kapp regretted and deplored the then existing political conditions in the City of New York just prior to 1870, when the old Tweed Ring had almost complete control of the judicial and legislative organization not only of the City but of the State of New York, and doubtless his resolution to return to his native land under the then improving political situation of his own country was quickened by the lamentable condition of the judiciary in the City of New York. From no man more than from Mr. Kapp did I receive words of encouragement in my own determination to do all in my power to assist in the destruction of ring rule in the City of New York. He frequently told me at that period of time, that he could not take part (as he intended to return to Europe), in the struggle which he saw was inevitable between honest men and the thieves in the City of New York, but he expressed the hope that a constant endeavor to crystalize the opposition to ring rule and to get rid of corrupt judges, venal legislators and complacent lawyers would be persisted in by the few bold spirits who were then buckling on armor for that memorable struggle.

Kapp, however, did a service, which it is well in this connection to men tion, and which no other man was so well qualified to perform as he. He was the natural leader of his countrymen during the time that he was in this country, as Mr. Carl Schurz is now. They had confidence in his integrity and were willing, to a very great degree, to follow his direction and advice.

At every public meeting where the Germans spoke as a people Kapp was foremost among the political speakers. He did more than any other one man in consolidating the German element in opposition to slavery, and he did more than any other one man in mitigating the legislative influence of puritanical severity of religious zealots. And his influence was deeply exerted in bringing to bear on American political action the higher standards of German ideas of political duty.

It is difficult to trace, in all their ramifications, individual influences which are exerted in the way that Mr. Kapp's were during the twenty years of his cisatlantic political activity. But all his work was in the direction which subsequently crystalized itself in civil service reform and the adoption of standards of conduct in American public officers which are accepted as fundamental in the country whence Kapp derived his early impressions and education. He returned to Europe, leaving hostages in America to tie him evermore in interest to American institutions, by the fact of his having two daughters married here to men deeply immersed in our industrial affairs. Shortly after his return to Europe he was made a member of the Common Council of Berlin. He was returned to the Reichstag. He was a director in several of the financial institutions of Berlin, and he carried into his then German activity a little of the American spirit of goaheaditiveness with which he had become imbued on this side of the water. He added considerably to the modest competency with which he retired from America, and both by speech and position continued to be a power in the land of his nativity and second adoption. So that when the *Gartenlaube*, in 1876, published his picture as the citizen of two hemispheres, he was a truly representative man of the best civilization of both Germany and America.

He was a constant contributor to the *New York Nation* during the best period of that best of American political periodicals, and continued to regard German affairs from the standpoint of the critic who had seen institutions other than those which were then developing, as he was always our own kindliest critic from the standpoint of German ideas during the time he was amongst us.

In the special domain of medico-legal labors he performed no noteworthy feat, but he was a man of such wide sympathies and such encyclopædic knowledge, and he contributed indirectly so much to the cause to which this Society devotes its activity, that it was eminently fitting to place him upon our list of corresponding members as it is now fitting to record a eulogium on his life.

Unostentatious and simple in his habits ; the best of husbands and an excellent father ; the embodiment of all domestic virtues as well as of all civic ones ; an historian, a lawyer, a statesman and a publicist, whose whole life was passed without reproach or stain under the eyes of the most actively intelligent people of the globe, in Berlin and New York ; who whatever good would lie in his power to do, never failed to do it with intelligence, with zeal, with earnestness and with honesty—Friedrich Kapp was a noble figure and a splendid examplar among his fellow men.

The Chair, Mr. Clark Bell, made feeling remarks upon the death of Mr. Kapp, fully concurring in the eulogy paid by Mr. Sterne to our deceased member, whom he had known and greatly admired while residing in New York, and said it gave him a melancholy pleasure to add to that regret which

he felt must be entertained everywhere at this death where Mr. Kapp was known. The resolutions were unanimously adopted.

On motion of the Chair, the following resolution was adopted:

Resolved, That the establishment of free public baths and washing houses in the cities of this country, and especially in this metropolis, would, in the opinion of this Society, be an important step in the prevention and spread of infectious diseases, and of great good to the masses of the people, and that all municipal authorities be requested to carry out this laudable and praiseworth object.

The following nominations were made for officers for the ensuing year:

For President—Clark Bell, Esq., W. R. Birdsall, M.D., Prof. R. O. Doremus, M D., A. H. Smith, M.D.

For First Vice-President—Clark Bell, Esq., Jacob Shrady, Esq., A. H. Smith, M.D

For Second Vice-President—Wooster Beach, M.D., Hon. D. C. Calvin, Hon. David Dudley Field, A. S. Hammersley, Jr., Esq., Luther R. Marsh, Esq.

For Secretary—Leicester Holme, Esq.

For Assistant Secretary—J. E. McIntyre, Esq.

For Treasurer—J. C. Thomas, M.D.

For Corresponding Secretary—M. Ellinger, Esq.

For Curator and Pathologist—A. H. Smith, M.D.

For Chemist—Prof. C. A. Doremus, M D.

For Two Trustees—R. B. Kimball, Esq., E. Bradley, M.D.

For Permanent Commission—Austin Abbott, Esq., C. A. Doremus, M.D., R. J. O'Sullivan, M.D., John Henry Hull, Esq.

Mr. Clark Bell, on being renominated by Dr. Carnochan for President, stated that he was not unmindful of the honor implied in his renomination, but that he felt it his duty to say that the labors of the office in connection with the increasing duties of the editorship of the JOURNAL, were more than he could continue to assume, without serious detriment to his professional labors. That he would much prefer that a medical man be selected for the Presidency, with whom he should gladly co-operate in the scientific labors of the Society. That Professor R. Ogden Doremus, who had been placed in nomination, was one of our ablest toxicologists,

and a man of world-wide reputation, for years an active and useful member of this body, and now the first Vice-President of the Society, who would adorn and grace the position, and that either of the other gentlemen named, Drs. Andrew H. Smith or Wm. R. Birdsall, each of whom stood very high in their profession, would, in his judgment, be acceptable to the Society, and useful in advancing that science to which its labors were directed. For these reasons he preferred not to accept the honor proposed.

On motion, it was resolved, that the President and Secretary have power to make additional nominations for any of the offices on consultation with members, and place the same on the election lists to be sent members.

Society adjourned.

J. E. McIntyre,
Assistant and Acting Secretary.

MASSACHUSETTS MEDICO-LEGAL SOCIETY.

Rooms of the Boston Medical Library Association, October 1st, 1884.

The meeting was called to order at 12.45 P. M., by President Presbrey; present, twenty-two members.

Records of the last meeting were read and approved.

A letter was read from Alfred Hosmer, M.D., of Watertown, accepting an active membership in the Society.

A letter of resignation was read from Chas. F. Folsom, M. D., of Boston. The resignation was accepted.

Upon recommendation of the Executive Board, S. W. Abbott, M.D., of Wakefield, was elected to active membership.

Medical Examiners W. M. Wright, M.D., A. H. Hodgdon, M.D., George L. Ellis, M.D., and George E. Putney, M.D., were elected to regular membership.

The report of the Committee to consider the law of medical examiners, as to its defects and needs, with a view to

changes therein, was taken up and the remainder of the time was devoted to discussion of proposed amendments to the existing law.

On motion of Medical Examiner Holmes, the meeting was adjourned to four weeks from October first at one o'clock P. M., and the Secretary was instructed to notify members of the time of meeting.

Voted to adjourn.

W. H. TAYLOR, *Recording Secretary.*

AMERICAN NEUROLOGICAL ASSOCIATION.

WM. J. MORTON, VICE-PRESIDENT, PRESIDING.

Tenth Annual Meeting, New York Academy of Medicine, June 18, 1884. Dr. Wm. J. Morton, of New York, retiring Vice-President, after appropriate remarks, introduced the President-elect, Dr. Isaac Ott, of Easton, Pa.

The President made an address.

After the nomination of candidates and officers, the following officers were elected:

President, Dr. Burt G. Wilder, of Ithaca, New York.

Vice-President, Dr. Leonard Weber, of New York.

Secretary and Treasurer, Dr. G. M. Hammond, of New York.

Councillors: Drs. W. R. Birdsall and W. J. Morton, of New York.

The Association then proceeded with its scientific work.

The first communication was by Dr. B. G. Wilder, of Ithaca: "Exhibition of Preparations Illustrating (*a*) the Existence and Circumscription of the Portæ (Foramina Monroi) in the Adult Human Braïn; (*b*) the Presence of the Crista Fornicis in Fœtal and New-Born Human Brains; (*c*) Two Additional Cases of Absence of the Callosum in the Domestic Cat; (*d*) the Covering of the Cerebellum by the Cerebrum in a Young Chimpanzee whose Brain was Hard-

ened within the Skull."—Which was discussed by Dr. R. W. Amidon, of New York, and others.

The William A. Hammond Prize.—Dr. Amidon read the report of the committee—Drs. F. T. Miles, of Baltimore, J. S. Jewell, of Chicago, and E. C. Seguin, of New York—announcing that no essay of sufficient merit had been presented for the prize, and that consequently it was not awarded.

Dr. B. G. Wilder, of Ithaca, then read a paper on "Microscopic Encephalic Nomenclature."—Which was discussed by Drs. C. L. Dana, W. R. Birdsall and B. G. Wilder.

Dr. A. D. Rockwell, of New York, then read a paper entitled "Tonic Spasm of the Diaphragm (?)"—Which was discussed by Drs. Wilder, Dana, Webber, Birdsall and Rockwell.

The following active members were elected:

Drs. Sarah J. McNutt, Geo. W. Jacoby and J. Leonard Corning, of New York; G. Belton Massey, of Philadelphia; Dr. Danillo was elected an associate member; also Auguste Forel.

Dr. G. M. Hammond then read a paper entitled "Can Locomotor Ataxia be Cured?"—Which was discussed by Drs. Wm. A. Hammond, J. Leonard Corning, A. D. Rockwell and W. R Birdsall, of New York; Drs. Bartholow, Massey and C. K. Mills, Philadelphia, Pa.; Webber, of Boston, and Bannister, of Chicago.

Dr. S. G. Webber, of Boston, then read a paper on "Multiple Neuritis."—Which was discussed by Drs. Rockwell, Birdsall and Amidon, of New York.

Dr. Roberts Bartholow, of Philadelphia, read a paper entitled "Note on the Chloride of Gold and Sodium in Some Nervous Affections."—Which was discussed by Dr. Dana, of New York, and Dr. Bannister, of Chicago.

The President called Dr. Birdsall, Vice-President, to the chair, and then proceeded to read his paper entitled "The Effect of Injuries of the Spinal Cord upon the Excretion of Carbonic Anhydride."—Which was discussed by Drs. Amidon, Bartholow, W. A. Hammond and others.

Dr. G. L. Walton, of Boston, then read a paper entitled "A Contribution to the Study of Hysteria as Bearing on the Question of Oöphorectomy."—Which was discussed by Drs. Amidon; C. K. Mills, of Philadelphia; J. J. Putnam, of Boston; A. D. Rockwell, of New York; M. Putnam Jacobi, of New York, Walton and others.

Dr. James J. Putnam, of Boston, then read a paper entitled "Typical Hysterical Symptoms in Man Due to Injury, and their Medico-Legal significance."—Which was discussed by Dr. C. L. Dana, of New York, and Dr. Putnam.

Dr. Sarah J. McNutt then read a paper entitled "Provisional Report of a Case of Double Infantile Spastic Hemiplegia," and presented a brain which showed the lesions.

Dr. Birdsall called Dr. Weber to the chair, and then read a paper on "Ophthalmoplegia Externa Progressiva."—Which was discussed by Drs. Amidon, Rockwell; Putnam, of Boston; L. Weber, of New York, C. L. Dana and others.

Dr. C. L. Dana, of New York, then read a paper entitled "*Folie du Doute* and Mysophobia."—Which was discussed by Drs. Weber, of New York; Putnam, of Boston; the author and others.

The Secretary then read by title a paper on "Mental Physics," by S. V. Clevenger, M.D., of Chicago; and a paper entitled "Note, with Seven Photographs, on the Impossibility of Mistaking the Auditory for the Trigeminal Region in the Medulla Oblongata of Reptiles," by John J. Mason, M.D., of Newport—the illustrations, as shown, demonstrating the point of the paper perfectly.

Dr. G. Betton Massey, of Philadelphia, then read a paper in which he reported "A Case of Sudden Loss of Vision Following Anæsthesia of the Fifth Nerve, with Remarks on the Modifying Effects of Anæsthesia on the Galvanic Reactions of the Special Senses."—Which was discussed by Dr. Rockwell, of New York.

Dr. George W. Jacoby, of New York, then read a paper on "Cerebro-Spinal Saturnism."—Which was discussed by Drs. Amidon, Birdsall, Dana and Massey.

The committee appointed to report a letter or minute on the death of Dr. George M. Beard presented the following report, which was accepted, and the committee was discharged with the thanks of the Association :

The committee to whom was referred the matter of the resolutions regarding the death of Dr. George M. Beard, request that the Secretary record in the minutes of the Society an expression of deep regret on the part of the Society at the loss of a valued fellow-member, and an expression of high appreciation of Dr. Beard's original talents, his persistent industry in scientific work, and his important contributions to neurology and psychology.

C. L. Dana, M.D.
C. K. Mills, M.D
Committee.

Dr. Amidon moved that the Association adjourn, to meet in 1885, subject to the call of the Council with reference to time and place. Carried.

Thirty-Eighth Annual Meeting of the Association of Medical Superintendents of American Institutions for the Insane.

Presidency of Dr. John P. Gray.

The Association met at the Continental Hotel, Philadelphia, May 13, 1884, with a large attendance of members. Dr. Curwen, Secretary.

The Commissioners in Lunacy of Pennsylvania and various managers and trustees of Insane Asylums present were invited to attend the session.

Resolutions announcing death of Dr. Thos. S. Kirkbride were passed, with appropriate remarks by Dr. Curwen, Dr. C. H. Nichols, Dr. Eugene Grisom of N. C., Dr. Pliny Earle, and the President, Dr. John P. Gray.

A committee to prepare a suitable memorial on Dr.

Kirkbride was named, composed of Dr. Curwen, Dr. Nichols and Dr. Callender.

The following officers of the Association for ensuing year were elected: President, Dr. Pliny Earle, Northampton, Mass.; Vice-President, Dr. Orpheus Everts, Cincinnati, Ohio.

The President, Dr. Gray, then read his address on "Heredity," after which he introduced Dr. Earle, the President-elect, who made a short address on assuming the chair.

The Report of Committee on Business was adopted, and the session closed.

MAY 14TH—Second Day's Session—Dr. Earle in the chair. The Treasurer's report was read and adopted. Dr. Curwen read the Historical Address, which was ordered published. Dr. Henry P. Stearns, of Hartford, Conn., read a paper entitled, "Progress in the Treatment of the Insane." Dr. W. W. Godding, of Washington, D. C., read a paper entitled "Progress in Provision for the Insane." The Medical Profession of Philadelphia and the Pennsylvania State Medical Society were by resolution invited to attend the sessions of the body. Adjourned.

MAY 15TH—Third Day's Session.—President Dr. Earle in the chair.

The Standing Committees, Dr. Theo. W. Fisher chairman, reported on Dr. Gale of Kentucky, a member proposed by Dr. C. C. Forbes, of Arkansas.

Dr. R. S. Dewey of Kankakee, Illinois, from Standing Committee on Cerebro Spinal Physiology, read a paper entitled, "Notes on Promotion of Mental Health by Care and Training of Children," which was discussed by Dr. Fisher and Dr. John P. Gray. Dr. Geo. C. Cattell, of St. Joseph, Mo., in the absence of the chairman of the Standing Committee on Cerebro Spinal Pathology, read a paper entitled "The Pathology of Tinnitus Aurium," which was discussed by Dr. Theo. W. Fisher, of Boston. Dr. J. B. Andrews, of

Buffalo, N. Y., read a paper entitled, "Therapeutics of Insanity and New Remedies," which was illustrated by pulse tracing as taken by the sphygmograph. Invitations were received from various associations and bodies; and, after the appointment of Drs. Gray, Chapin, Andrews, Nichols and Curwen as a Committee of Arrangements, the session closed.

MAY 16TH—Fourth Day.—President Dr. Earle in the chair.

Dr. Foster Pratt, of Kalamazoo, Michigan, offered some resolutions regarding pauper immigration of the insane, which he enforced by statistics and extended remarks; which were discussed by Drs Cattell, Pratt, Nichols, Earle, J. Strong, Cleveland, Ohio; T. M. Franklin, N. Y.; Walter Channing, Brookline, Mass.; John B. Chapin, William Stearns, Gordon W. Russell, Hartford, Conn., and were unanimously adopted, to memorialize Congress to so amend the emigration laws as to prevent the exportation to our ports of the so-called "defective classes," including insane and criminal classes.

In the absence of Dr. Hurd, chairman, Dr. Palmer read the report of the Standing Committee on the "Bibliography of Insanity," sent by Dr. Hurd to the Association.

Dr. S. S. Schultze, chairman, read the report of the Committee on "Asylum Location, Construction and Sanitation." Session closed.

MAY 17TH—Fifth Day.—Dr. Earle, President, in the chair.

Dr. Orpheus Everts read a paper on "Treatment of the Insane," which was discussed at length by Drs. Pliny Earle, Gray, Godding, Nichols, Channing, Schultze.

Dr. Theodore W. Fisher read a paper on "Tumor in the Brain."

Dr. John B. Chapin read a paper on "Mental Capabilities in Certain Stages of Typhoid Fever."

Dr. Chapin moved that assistant physicians of regular

asylums of four years' service be constituted members while connected with such institutions, which was, on his motion, referred to the executive officers for future action, on their report at next meeting.

The Standing Committee for next year were announced:

1. On the Annual Necrology of the Association: Dr Eugene Grissom, of North Carolina; Dr. A. B. Richardson, of Ohio, Dr. Edward Cowles, of Massachusetts.

2. On Cerebro-Spinal Physiology: Dr. J. Strong, of Ohio; Dr. Theodore W. Fisher, of Massachusetts; Dr. J. Z. Gerhard, of Pennsylvania.

3. On Cerebro-Spinal Pathology: Dr. Richard Gundry, of Maryland; Dr. C. H. Hughes, of Missouri; Dr. H. Wardner, of Illinois.

4. On Therapeutics of Insanity and New Remedies: Dr. J. B. Andrews, of New York; Dr. H. M. Hurd, of Michigan; Dr. A. N. Denton, of Texas.

5. On Bibliography of Insanity: Dr. W. Channing, of Massachusetts; Dr. H. P. Stearns, of Connecticut; Dr. P. L. Murphy, of North Carolina.

6. On Relation of Eccentric Diseases to Insanity: Dr. J. H. Callender, of Tennessee; Dr. D. Clark, of Ontario; Dr. S. S. Schultz, of Pennsylvania.

7. On Asylum Location, Construction and Sanitation: Dr. Jos. Rogers, of Indiana; Dr. J. T. Steeves, of New Brunswick; Dr. G. C. Palmer, of Michigan.

8. On Medico-Legal Relations of the Insane: Dr. John P. Gray, of New York; Dr. P. Bryce, of Alabama; Dr. G. C. Catlett, of Missouri.

9. On the Treatment of Insanity: Dr. H. F. Carriel, of Illinois; Dr. D. R. Burrell, of New York; Dr. A. M. Shew, of Connecticut.

Dr. Callender, from Committee on Resolutions, reported a series of resolutions of thanks to the managers and bodies who had entertained the Association, and to those who had extended invitations, the Press and the proprietor of the Hotel, which were adopted.

The Association adjourned, to meet at Saratoga, New York, the third Tuesday of June, 1885, at 10 A. M.

MEDICO-PSYCHOLOGICAL ASSOCIATION (ENGLISH.)

PRESIDENCY OF DR. RAYNER.

At the annual meeting, held July 23, 1884, the following officers were elected:

OFFICERS AND OTHER MEMBERS OF COUNCIL OF THE MEDICO-PSYCHOLOGICAL ASSOCIATION. YEAR 1884–5.

President-Elect, J. A. Eames, M.D.; Treasurer, John H. Paul, M.D.; Editors of Journal, D. Hack Tuke, M.D, G. H. Savage, M.D.; Auditors, J. Murray Lindsay, M.D., W. J. Mickle, M.D.; Honorary Secretaries, E. M. Courtenay, M.B., for Ireland; J. Rutherford, M.D, for Scotland; H. Rayner, M D., General Secretary.

MEMBERS OF COUNCIL.

David Yellowlees, M.D., W. Bevan Lewis, L.R.C.P., D. M. Cassidy, L.R.C.P. Ed., Henry Stilwell, M.D.

Dr Maudsley moved a vote of thanks to the President for his Address, remarking that so far as a general impression would go, he heartily coincided with most of the suggestions made. In regard to any steps which might be taken to bring about more careful proceedings for the admission of cases into asylums, he might say that he felt sure that they would not result in a cessation of the outcry against asylums. Taking the recent case of Gilbert Scott, which was a case tried before a Judge of the Supreme Court, with a jury, although, after a careful trial of three or four days, the jury were unanimous and the judge expressed his entire agreement with them, yet the newspapers were not satisfied; and probably if every case were tried before a jury, still the public would not be satisfied. He was glad to hear the President's experience as to the use of sedatives in regard to insanity. It agreed with what he had himself said when he occupied the chair, that they were seldom useful, and sometimes positively mischievous. Before sitting down he might say that he hailed with pleasure the presence of a distinguished foreign honorary member of the Association, Baron Mundy. That gentleman would, he knew, have taken great interest in many of the points contained in the Address, and particularly in regard to the treatment of the insane out of asylums In fact when Baron Mundy was in this country he was an apostle of the cottage-system of treatment, and he would no doubt be pleased to recognize a very considerable modification of opinion since then.

Dr. Hack Tuke seconded the motion, saying that the Address was full of information, and likely to lead to a practical discussion. As Dr. Maudsley had referred to one distinguished visitor, he might be permitted to mention the presence of another, viz., Dr. Chas. H. Nichols, of the Bloomingdale Asylum, New York, who had been delegated to this Association from the Association of Medical Superintendents of American Institutions for the Insane.

The motion was then put to the meeting and carried with applause.

The President, in thanking the Association for their vote of thanks, said that he felt sure that it gave them all great pleasure to have their honorary members present, and he hoped that Baron Mundy would not fail to express some of his views in regard to the single care of patients.

Baron Mundy said that, having to leave to attend another meeting, he would take this opportunity of thanking them for the reference they had

made to his presence. He said that in France and other foreign countries the lunacy laws were not nearly so well regulated as in England, but there were commissioners appointed, partly from the Ministry of Justice, and partly from the medical corporations, who visited patients after a fortnight. In regard to the "cottage" or "family" system, he said that France stood nearly where it did twenty years ago, although there was much talk there about "family" treatment, and some attempt at it. Norway, Italy, and Sweden were as before; and he was sorry to say that Austria was still behindhand, except in Vienna. In Germany progress had been made. He would call their attention to a report at the Copenhagen Congress relative to the system in question, which was working well on an estate which had cost about £30,000, and which had been bought for a lunatic asylum, but where the insane were living in the different houses which had been built before the inhabitants left. There were central infirmaries, but the system was a separate one. Half of the cost of the estate had already been repaid. It was proposed also to buy such an estate near Munich. From his experience, however, he was obliged to say that he did not think such a system could be carried out in England.

The PRESIDENT suggested that the adjourned discussion on Dr. Hack Tuke's paper might be taken at the same time as the discussion on the Address, as the subject was referred to in it.

Mr. MOULD said that the system described by Baron Mundy had been in existence at Cheadle for seventeen or eighteen years, where they had living in cottages many patients out of the main building of the asylum. He should like to bear his testimony to what Dr. Rayner had said with regard to the certificates. He hoped and believed that in the ensuing year those certificates would be modified or done away with—at all events in their present form. It was impossible to shirk the question. It was all very well for them to be afraid of a law which they knew to be bad in its inception and still worse when carried out. For several years he had, almost in defiance of the law, received patients as boarders without certificates. He had always taken the Commissioners to see them, and he must say that they had never interfered. The regulations were constantly broken, and by no class of people more than by the rich. A rich man's friends would say, "Cannot you allow a couple of nurses to come into the house?" or, "Cannot you do this or that?" but when it came to the legal question they would ignore all that, and help in the prosecution. Only think of the harm which those certificates did! In the case of a man in excellent business it actually took away his means of living. He could mention a case in which the friends interfered, fearing that the patient's future would be ruined, and the man died insane. He hoped that, when the Parliamentary Committee met, some other mode would be hit upon of placing a patient in an asylum. He fully agreed with Dr. Rayner's suggestion, that a patient should be sent to an asylum for a short definite period, and that in that period he should be visited to see whether he should continue under care and treatment. That

would do away with the disadvantages of the existing state of things. He had felt the utter inutility and positive obstruction of the certificates, and protested against treatment of patients by simple Act of Parliament, instead of by common sense. He had, at the present time, the good fortune to be indicted for a conspiracy. He had received a patient who was discharged and brought an action against the two medical men who signed the certificates. The action was quashed, and because he had received that patient he had been indicted for conspiracy. Of course it was for him to show *bona-fides*, and he hoped to show also the absurdity of the law which allowed a public officer to be indicted and put to a great expense simply for doing his duty.

Dr. SAVAGE said he had always felt the great importance of having some "house of rest" to which patients could be taken at once. There was no doubt that Mr. Mould broke the law habitually, and the older he (Dr. Savage) grew, the more he felt inclined to break it. Cases were brought in which he thought humanity necessitated it. Only last week Dr. Maudsley sent a patient to Bethlem, quite maniacal, without any certificates whatever, and said: "See what you can do with this patient." He took the patient in. Of course he got the certificates by that evening; but consider the position. There was a maniacal patient with only a feeble old woman in the cab with her. That often happened. Unfortunately, there was another side to it. Even if they had a house of rest, something also was required in the way of power to compel dangerous people to be retained. Two cases had occurred in his own experience within the week, which were of grave import. A patient admitted into Bethlem in consequence of acute mental disorder following upon delirium tremens, got sufficiently well to understand his business relationship, and his friends said, "We will take him out at once. His business is interfered with." I said, "It is a temporary calm. I am sure he will have a relapse." The patient was perfectly sane. His friends would not believe the medical opinion. He was taken out: an indemnity was given by his wife, and within two or three weeks he killed her. Another patient was taken out under almost precisely similar circumstances The friends were warned, but they would not believe medical advice, because the patient answered so reasonably. An indemnity was given, and that patient killed himself. Accidents of this kind would occur, and he was afraid he was inclined to look rather easily upon suicidal ones; but if they were to have a house of rest, they must have some arrangement giving power of detention. As to special certifiers, that would be of the greatest importance; not because the man who signs usually loses a friend, but because there were many cases in which ordinary medical men had no right to sign a certificate. They were told so and so by the friends, but the symptoms put down in an immense number of cases were worthless and misleading. Of course, the Commissioners were doing their best, and they had much more to do; but patients themselves complained that they were sometimes three or four or five months in an asylum without being seen by the Commissioners. Perhaps patients would never be satisfied; but it was just that

within a certain time of admission—say within three or four weeks—patients ought definitely to be seen by a State-expert. He could not agree with Dr. Rayner altogether about the dietary He did not believe—although Dr. Rayner spoke as though he regarded it as likely—that Dr. Rayner thought that the dietetic value of food was to be judged by the mere analysis of it. He should be very sorry to see the time come when patients would be fed according to the amount of nitrogen, hydrogen, or carbon which the food contained. There were some present who felt strongly that there was scarcely a county asylum where the dietary was satisfactory. There would always be many difficulties, and he was afraid there would always be some hotch-potch in the food. He quite agreed with Dr. Rayner that the age of quieting patients by narcotics was coming to an end, but he trusted that the pendulum would not swing too much in the other direction. There were cases in which he believed that treatment of a very severe kind was useful. They might see at Bethlem shaven scalps, and even blistered scalps, and he remembered cases which had improved under that treatment. The same with narcotics. If they had a sharp weapon it might be either extremely useful or dangerous according as they knew how to use it; and because it might be dangerous he hoped they were not going to exclude the fact that it might be extremely useful.

Dr. Bucknill said that he thought the Address was a very able one, but he never heard one with which he so generally disagreed. On certain points which were being referred to when he entered the room, he would reserve his opinion. In regard to the very interesting points touched on subsequently, he must say first of all that he cordially agreed with what Dr. Savage had said with respect to treatment. He was glad to hear him say that shaven scalps and blistered scalps could be seen in his wards, for he (Dr. Bucknill) had seen them there, and he thought he was, to some extent, responsible for that. It was one of those things which, under certain conditions, did so much good; but they were now so much afraid of responsibility that, as a rule, they had left off that and other treatment which was beneficial to recovery. They thought too much of what the outside world thought, and were apt to forget that the greatest benefit which they could confer upon a lunatic was to cure him by any means available. He also begged respectfully to refer to the use of narcotics, and especially of morphia. Judiciously used, morphia was one of the best of remedies, and to have a kind of general discredit thrown upon it in the present Address, and also in the Address by Dr. Maudsley on a former occasion, was, he thought, a very mischievious thing. What was to be avoided was the giving of narcotics for the purpose of quieting patients; but to say that they should not be given for curing patients, was a dangerous doctrine and a retrograde one. He agreed as to certificates. The whole thing was wrong. As to the law of "two medical men separately," what could be more absurd? It was the entire reverse of what took place in the case of bodily disease. There concurrent examination was made; but in lunacy each medical man must

examine separately, and so the public lost the advantage and security which would be attained by two or more conscientious men examining together. He agreed entirely also with the suggestion that had been made that there should be an intermediate house, as distinct from the asylum ; in fact, he thought that the more they treated insane patients on the same lines as patients were treated in hospitals the more they would be honored, and the better the public would eventually be satisfied.

Mr. Hayes Newington thanked Dr. Rayner for the kind opinion he had given as regards private asylums. Examination by a Government official was, on the face of it, a very wise thing, and would satisfy the public ; but the question was—What was their duty? Was it to satisfy the public, or was it to do the best thing they could for the patient? Would the proposed examination be for the benefit of the patient? Such an examination would be called for only in one case out of ten ; but taking that one case, what would be the result? He could honestly say, from his own experience, that the visits of the Commissioners had much prejudiced the recovery of the patient. Suppose the somewhat doubtful case of a lady who had the idea that she was well, and who was much worried by the difficulty she had in getting the doctor to see that she was well. As long as she had the hope of proving herself right and the doctor wrong, she would be at great pains to benefit herself. The Commissioners would come, and would, unfortunately, be obliged to think the same as the doctor, and the patient would begin to rave at once. Then, too, what Government official would ever take the responsibility of saying that two medical men were wrong? He did not see how any Government official in a fortnight would, in the face of two medical men who knew the circumstances of the case, say that they were to be discredited, and the patient set right. Then what was to be done? Possibly he might be thought foolish in saying it, but he did not see that anything had to be done. Perhaps a few trifling alterations might be made in the law ; but the best cure for ill-doing was to be found in the fear connected with the responsibility for such ill-doing. Mr. Mould had taken great credit to himself for law-breaking ; but if his *bona fides* were not so well proven he would find it a very severe responsibility to break the law. He did not, however, think that they need throw on one side the suggestion as to the magisterial inquiry. He had always held that if the Commissioners were empowered to write confidentially to many of the public servants of a town in the country—say to a Justice of the Peace—the very Justice of the Peace before whom the examination took place—making inquiries as to the family and other circumstances connected with the patient, and the public knew this, it would go a very great way to allay dissatisfaction. He thought they were all too much disposed to run after the "liberty of the subject." This wss, of course, sacred to every Englishman, and it required very serious neglect of duty to cause a person to be deprived of his liberty. It seemed, however, to be forgotten that liberty was not a present made unconditionally to every man, but that it had its duties as well as its privileges ; and he thought

that the liberty of the friends of the subject was vastly more interfered with by the insane patient than the liberty of the patient was by the friends.

In reply to inquiries by Dr. Bucknill and Dr. Hack Tuke, Mr. Mould said that he had never broken the law in the sense of detaining patients, without certificates, for profit. He had kept patients from going to an asylum, under certificates, by treating them at their own homes with the aid of their medical men. He had done this sometimes in order to prevent them being thrown out of their business. Only the other day he saw a gentleman who would have been thrown out of his firm if he had been certified. The law, as it at present stood, allowed a person to be suspended at once from his business. He had gone even further. He had frequently with the full consent of his colleagues, allowed patients to take such active part in their business as would prevent its being lost. In hospitals they were allowed to take "boarders" It was for the superintendent to determine whether these persons were so insane as to need certificates, or whether they required simply a certain amount of control and supervision. He had at the present time something like forty or forty-two boarders. All of them had been seen by the Commissioners, and all were patients staying on of their own free will. He referred also to a case of a lady whom he had detained against her will for a little time.

Dr. Campbell said he was very pleased to hear Dr. Rayner's remarks with reference to imbecile children, whom it was very wrong and improper to send to adult asylums. He had last year a child of eight years of age, and sent the child away. He thought it very hard that an imbecile, who had the misfortune to be epileptic, should be excluded from the imbecile asylum. He was also pleased with Dr. Rayner's remarks on dietary. He thought that the dietaries of public asylums required very much improvement. There should be a summer diet and a winter diet. The amount of fruit and vegetables given to pauper patients was not enough, and the monotony was most wearisome. As to treatment, many might differ from the views expressed both by Dr. Rayner and Dr. Bucknill; but the truth could be arrived at only by discussing the treatment, and they ought all to combine in inquiry as to its relation to recovery. They had not enough data to come to any conclusion about it. In regard to blistering, which Dr. Savage seemed to take to himself considerable credit for, many of them had not as yet come to a conclusion as to the cases it was good for. He thought that they should, at their quarterly meetings, put down some one subject of practical value for discussion, and give their experience. That would conduce very much towards their advancement in knowledge in regard to medical treatment.

Dr. Fletcher Beach said he quite agreed with what Dr. Campbell had said about their not being able to take into the imbecile asylum imbeciles who had the further misfortune of epileptics. It would be of very great advantage if they were allowed to take in patients who were only or also epileptic. At present they were obliged to return such patients. He believed

there was a place in the North of England for epileptics alone, but not in the South of England. What happened now was that a child would be removed from one place to another, and perhaps became an imbecile when he would not otherwise have become so.

Dr. YELLOWLEES said that they were supposed to have some peculiarities in Scotland as to lunacy. Their certificates there were endorsed by a legal functionary, the Sheriff, and the result was that they had less grumbling on the part of the relatives, and on the part of the patients themselves. It was his familiar conclusive reply to a patient, "The Sheriff has sent you here." That position was one which shut up the patient, so to speak, and satisfied the friends, and he did not believe that any subsequent examination by a certifier, no matter who he might be, would equally satisfy patients or their friends. He thought that the certifier would be suspected by the public. Some people were never satisfied ; and if the certifier were a medical man they would not be much nearer to satisfying this section of the public. The Scotch method was really therefore answering very well. The patient did not appear before the Sheriff at all, and he must say that sometimes the Sheriff endorsed cases which he (Dr. Yellowlees) would not have received. In Scotland, the superintendent of the asylum at once signed a certificate of emergency for the patient, which certificate was valid for three days, thus allowing ample time to communicate with the friends and make other inquiries. The emergency certificate was therefore most valuable. Then the other difficulty, referred to by Dr. Savage, was provided for. In Scotland the friends could not remove a dangerous patient without the consent of the medical superintendent. The mode in which the medical superintendent exercised that power was that he would communicate with the Procurator Fiscal to the effect that a dangerous patient was about to leave the asylum, or rather he would say to the friends, "You may, if you please, take the patient away ; but I must acquaint the Procurator Fiscal, who will arrest the patient." That threat was, of course, enough, and he had in only one case had to ask the Procurator Fiscal to arrest the patient. He was very pleased to hear what Baron Mundy told them ; but the same thing had been done in Scotland and elsewhere. They would all recognize what Dr. Rayner had said about the increasing requirements of accommodation for lunatics ; but he believed they were on the wrong tack, and that until they had got small curative asylums, containing not more than 200 or 250 patients, they would not be able to fight lunacy as they ought. It was only in that way that the curable patients would get a fair chance of recovery, and that the terrible incubus of incurable patients would be lifted away, so as to enable medical officers to do their best for the cure of the others. He very much appreciated the energy and antithesis with which Dr. Bucknill had spoken ; but he was not prepared to go that length. He did not at all understand Dr. Rayner to speak of treatment by, but the misuse of, narcotics. He would very much like to hear more about another point touched upon in the Address. If there was one bit of practice which had assumed to him a

greater definiteness than any other, it was that dipsomaniacs should not get stimulants unless their physical condition absolutely required it. He formerly thought that there were no conditions where alcohol was required, but he now thought there were cases in which it was needed.

Dr. Stewart said that it was impossible to assume too decided a position upon the last observation. He would ask what was meant by "dipsomaniac." There was no more misused term. Probably if he asked Dr. Yellowlees to give an absolute definition of that word he (Dr. Stewart) would not be satisfied with it. The majority of the cases called "dipsomaniacs" were not so at all. The term was very loosely used by the general public, and they, as practical physicians, should set themselves most decidedly against looseness of application of a term. What was "mania?" They generally accepted, as a fair definition of insanity, that it was a disease of the brain which involved the mind. Now, was the ordinary dipsomaniac one who had got a disease of the brain? And, until they were prepared to say that the majority of the patients called "dipsomaniacs" had a physical disease of that portion of the body which was called the brain, it was extremely unscientific to speak of "dipsomania." Nine-tenths of so-called "dipsomaniacs" were not so at all, and no psychologist of scientific repute would class them as such. A dipsomaniac, in the ordinary sense of the term, was only a person who was in a chronic state of drink. Was that a brain-disease? Was a constant desire of a man to give way to his carnal passions a disease of the brain? Were all the vices he could name diseases? He maintained that there was not one case in a thousand of so-called "dipsomaniacs" in which it was at all necessary, or even good practice, to administer stimulants in any form whatsoever. It had been remarked that they were too careful to regard what the outside world said, and what the Commissioners said. He endorsed this in both ways. A typical case had been brought under his notice the other day, in which an individual, who was decidedly of unsound mind was brought before a physician who had a great fear of the Commissioners. He (Dr. Stewart) had no such fear. His first duty was to look upon the case individually, and, having come to a conclusion upon it, he thought the other gentleman might consider it separately, and apart from his fear of the Commissioners. "No," he said. "I will not. The Commissioners may upset the case in a few days." He thought they were bound to do their duty in spite of what the Commissioners might say, and he commended Mr. Mould for the way in which he acted upon his opinions. He was quite sure that an intermediate home would do good; but there was a great practical difficulty in the way, and that was the bugbear of the Commissioners.

Mr. Bonville Fox said that as to the place of rest which had been proposed, he should like to ask what would be the legal status of the individuals treated therein? by whom would they be transferable thereto and therefrom? by whose authority and at whose discretion would they be kept there? who would determine whether they should be kept there or sent on? and, while

there, at whose risk were they there? He was bound to say he had that afternoon heard one or two things which had rather astonished him and opened his eyes. He heartily endorsed what had fallen from Mr. Hayes Newington, that the fear of the law was the great protection of the freedom of action of the individual. Anything that would relieve the proprietors of private asylums from their responsibility and onus would be welcomed by them as freeing them from the unpleasant position in which they were often placed; and if patients were consigned to them by such an order as that of the Sheriff in Scotland their position would be a very different one from what it was. He would point out especially that, as far as the freedom of the patient was concerned, he would be precluded forever from bringing any action against a person who had signed that order, when once it had been endorsed by a sheriff or magistrate. With reference to what Mr. Mould had said, he might say that about a month ago a patient was brought to his asylum at ten o'clock at night. The order had not been signed, but the certificates had been. It would have been contrary to their idea of anything legal to have received the patient, so the only thing they did was to send up to the nearest magistrate, who, after a good deal of compunction, signed the necessary order. He found now that they might have received that patient.

Mr. Mould explained that what he had said referred only to boarders in hospitals.

Mr. Bonville Fox said he did not quite understand what Mr. Mould had said about the dipsomaniac lady.

Mr. Mould said that he was only stating what was the law upon the subject as to voluntary boarders. That lady was received under her own hand. He enforced his bond, saying, "No; you agreed to stay with me." The Commissioners saw her, and they said, "Give her another chance." He did so, but she came back again. The Commissioners had sent round a circular saying that all hospitals could receive voluntary patients. No sanction had to be got whatever.

Mr. Bonville Fox asked whether they were kept when they wanted to go away.

Mr. Mould replied that they could be kept for a definite period.

Dr. Nichols, of New York—Mr. President and Gentlemen: I heartily thank you for the cordial manner in which you have received my introduction to you as a member of the American Association of Superintendents. Though well aware that an introduction to your body by such a distinguished and esteemed member of it as Dr. D. Hack Tuke affords ample warrant for your cordiality, I regret that I forgot to bring with me this morning from my distant hotel in this great city a certificate accrediting me to this Association as a delegate from the like Association on the other side of the water. I shall, however, embrace an opportunity to hand it to your Secretary as a sort of official evidence that I am the man that, upon Dr. Tuke's authority, you have kindly taken me to be. That document authorizes me to offer you the

cordial greetings of the body I represent on this occasion. If I am correct in my recollection, our Association takes precedence of yours in age, but as a people we do not forget our national origin, which we consider exceedingly respectable, and still, as I trust we always shall, notwithstanding occasional differences in past times, have a filial regard for the mother country, and a family pride in the grandeur of its institutions and the happiness of its people. The able and practical address of your President, and the discussion that has followed it, have deeply interested me, partly because of the views expressed, and partly because I find that most of the subjects brought to your attention by the Address are the very same that are now engaging the attention of practical alienists in America. It is true that two or three of them may be said to be *res adjudicatæ* with us. For example, a large proportion of our patients come to us both in an anæmic and neuræsthenic condition, and we are quite agreed that they generally need a generous diet; and, with few exceptions, I think they get it. The variety of food they get is considerable, the quality is generally at least fair, and the quantity is practically unlimited. We everywhere experience the difficulty of cooking and serving the food in the best manner, for large numbers, that has been before referred to in this discussion; and while the cooking and table service in our institutions have been greatly improved in the last twenty-five years, and is in the majority of them now fairly well done, without doubt it is in many of them susceptible of much improvement. We give our patients milk and fruits freely. In many institutions malt liquors are more or less used, but I think they are generally prescribed as a tonic rather than used as a beverage or article of diet. Again, so far as I am aware, there is not any sentiment among our practical men in favor of the family care of the dependent insane. We have not suitable families suitably situated, nor does it seem practicable for us to make provision for the requisite supervision. But with respect to what is known as the *cottage* treatment of the insane, alluded to in the Address, I may say that there is with us a growing tendency to disintegrate our patients, most of the latest asylum edifices having been built in separate sections or blocks connected by corridors. In the State of Illinois a public institution has been built, and organized distinctly on the cottage or quite-separate-buildings plan, but the desirability of public provision for the insane upon this plan may be said to be with us an open question. I think we do pretty generally favor detached buildings for the chronic and other special classes, but connection with an ordinary asylum or hospital edifice, suitably furnished and fitted up, for the treatment of the recent and active cases. The Government Hospital for the Insane at Washington, and the Willard Asylum for the Chronic Insane in the State of New York, are examples of such an arrangement of buildings. We have, as you know, in America nearly forty States, each of which is independent of all the others, and of the general government, in the management of its interior concerns, among which is the provision it makes for the care of its dependent classes, including its insane. The natural consequence of

this governmental arrangement is that the laws of the different States relating to certification for the purposes of treatment in their institutions vary very greatly. In some States they are much too lax, allowing a patient to be sent to an asylum upon the simple certificate of one physician; in others they are too rigid, not to say barbarous, requiring a verdict of insanity by a public jury, as if the patient were under a criminal charge, before he can be placed under proper treatment. In some States, as in New York, legislation has been enlightened and prudent, and their laws relating to certification are pretty much all that can be desired, being sufficiently rigid to amply protect the personal liberty of the citizen and satisfy popular sensibility upon this subject, while they allow reasonable promptitude in getting patients under treatment. It may be said that, whatever views may be entertained by individuals on our side respecting the restraint and treatment of the insane upon the responsibility of their friends and the medical men having the care of them, it is not probable that any one of the American States would tolerate such a practice. I know of no law in America that stands in the way of the admission to our institutions of strictly voluntary patients, but our difficulty in such cases is that they will rarely remain under treatment long enough to receive lasting benefit. It has never come to my knowledge that a physician has lost his attendance upon the family by certifying to the insanity of a member of it, precedent to his treatment in an institution or asylum. Except in the case of the poor, supported on the public charge, certificates are usually given at the request, or at least with the concurrence, of the nearest relative or guardian of the patient. While there has not been any material change in our views respecting the nature of insanity, I believe there has been, in a practical way, a more general recognition that it has essentially physical pathology than was formerly the case, and that the general aim among us is to place the patient in a sound physiological state, and at the same time to give the cerebral disorder and the mental derangement such special treatment as appears to be indicated in each case. We probably resort to medical treatment as often, perhaps oftener, than we formerly did, but I am glad to believe that it is much more delicate and discriminating and less gross and routine than it formerly was. The views and practice of our superintendents are not altogether uniform, as, from the Address and discussion, they do not appear to be here; but the tendency is, I believe, towards what I have stated. For myself, after a pretty long experience, I am an earnest believer in the value of medicines in the treatment of insanity, but hold that, in this as in all other diseases, they should be prescribed with careful reference to an important end that the physician believes can be attained by their administration, or in conjunction with it, but which cannot be as well or certainly attained without their use. It is clear to me that opium is curative in a limited number of cases of mania, and that it may be administered with advantage in some cases of melancholia; also that opium, the bromides, chloroform, hyoscyamus, if discriminatingly used, are so advantageous in allaying excitement and procuring sleep that it at times be-

comes the duty of the physician to prescribe them, but that their long-continued use in individual cases should generally be avoided. Warm, graduated baths, with the application of cold water—sometimes of ice-water—to the head when the latter is hot, taking great care not to frighten or distress the patient, and following the bath by rubbing the whole surface with alcohol or whiskey, as a swelling is rubbed with liniment, will often procure sleep more satisfactorily than any drug administered internally, while it allays the fever and saves the strength of a feeble patient. Our climate is malarial, and we have occasion to use a good deal of quinine, both as an anti-periodic and tonic. We also use the mineral and special tonics freely. Counter-irritation to the shaven head has gone almost altogether out of practice in American institutions for the insane, from the same feeling that appears to have influenced British practice in this respect, viz., that if it is of doubtful advantage, as we think it is, then it is scarcely justifiable. We have felt that, when such treatment appeared to be indicated, its ends can be substantially as well attained by cups and blisters over the nape, temples, and behind the ears, as by applications to the shaven head. I forbear to further traverse the Address, wishing to confine my remarks strictly to a few subjects of common interest on both sides of the water, and thank you for the patience with which you have listened to what I have said.

Dr. CAMPBELL said that allusions had been made to the boarding-out system. That was a matter he should like to hear about. There was at one time a very great deal written about this in the official records of the Scotch Commissioners, but during the last seven years he had noticed that there had been a gradual diminution in the numbers boarded out, and, as it was a matter involving many points for consideration, he might, perhaps, be allowed to throw out the suggestion that it would form a most admirable topic for a paper from the other side of the border.

The PRESIDENT, in reply, said that the discussion on the Address had been so prolific that he could not but feel thoroughly satisfied in having thrown his net as widely as he had done to catch subjects which had excited interest. As regards "treatment," he would only say that he thought Dr. Bucknill misunderstood him to a certain extent. His observations on that head might be summed up by saying that he considered it necessary to be a good physician to be a successful alienist. He spoke of the use of narcotics as a means of restraint as one of the things of the past; but he left it quite an open question whether the brain could not be satisfactorily influenced by narcotics, as some in the profession held that it could be, although he, for one, had not been suceessful with them. He did not say narcotics were not of use, or might not be of use, but at present his own reliance as to treatment was on bodily health and external applications to the head, which he had found very successful in certain cases of stupor, and even in some cases of hallucination in which there was reason to suspect a localized lesion of the brain. With regard to the treatment of dipsomania, he could say only that he had been much more successful in the cases he had treated by train-

ing the patient in habits of self-control than in those cases in which he had tried to get the patient to abstain altogether. He could quote one case of a man whose grandfather and father were dipsomaniacs. The patient himself became insane from drink at the age of 49. He was under restraint for some years, and recovered. After leaving the asylum he lived for ten years, not as a total abstainer, but as a moderate user of alcohol at his meals. With respect to the general question of dietary, he was pleased to find that his remarks were approved of. He trusted that Dr. Campbell's suggestion as to a forthcoming paper on "boarding-out" would bear fruit.

A paper by Dr. Newth, "On the Value of Electricity in the Treatment of Insanity," was taken as read.—(*Journal of Mental Science.*)

MEDICAL JURISPRUDENCE SOCIETY OF PHILADELPHIA.

The fourth stated meeting was held at the hall of the College of Physicians, October 14th, 1884, Geo. W. Biddle, Esq., in the chair. Present: Drs. Ruschenberger, Roberts, Andrews, Reese, Bennett, Simsohn, Wirgmann, Ashhurst, Ludlow, Barton, A. W. Miller and Wood, and Messrs. Ashman, Hazlehurst, Gazzam, Beeber, Carson and Cadwallader; Dr. Henry Leffmann, Secretary, and Dr. S. Solis Cohen, Recorder. Twelve visitors were present. Dr. John B. Roberts read a paper on "The Legal Control of the Practice of Medicine by a State Examination." The paper was discussed by Messrs. Hazlehurst, Reese, Leffmann, Wood, Mills, Beeber and Ruschenberger. Dr. Jackson, of West Chester, Chairman of a Committee on Medical Education of the Pennsylvania State Medical Society, addressed the meeting by invitation. On motion of Mr. Hazlehurst, seconded by Dr. Mills, a committee was appointed to consider whether any form of legislation could be devised to carry out the objects suggested by Dr. Roberts, or similar objects; and the committee was instructed to confer with the committees appointed by the County Medical Society and the State Medical Society, and to report on the second Tuesday in December. This Committee consists of Messrs. Hazlehurst and Carson, and Drs. Wood, Roberts, Leffmann, Mills, Reese and Ludlow.

The draft of a new poison law proposed by the Pharmaceutical Association was referred to the Committee on Legislation, for examination and report as to whether it was of a character that could be endorsed by this association.

The Committee appointed to draft a minute expressive of the loss sustained by the Society in the death of its first President, Prof. S. D. Gross, reported a series of resolutions, which were unanimously adopted. Drs. J. William White and Wm. H. Parish, Theo. E. Seyfert and F. E. Stewart, Mr. Louis Genois, F. J. Thompson, and F. A. Osbourn, Esqs., were elected members.

Summary of a report recently presented to the French Society of Legal Medicine. Read at the fourth stated meeting of the Medical Jurisprudence Society of Philadelphia. By Henry Leffmann, M.D.

The report, which is quite elaborate, and after the reading was discussed at length, opens with an allusion to the importance of the topic. It is pointed out that the system of official experts is open to the objection that the persons so employed will always have inclinations towards giving validity to the suspicions in criminal cases, because if the matter is dropped without public trial the work of the expert is not heard of—his reputation gains nothing. He will always be interested, therefore, in giving as much publicity as possible to his results, and will therefore be a prosecutor. It is advisable to employ two experts, because the work will be more carefully done and the conclusions drawn with more care. The German law is quoted as requiring at least two persons, the official expert and the district physician, to be present at the post mortem.

Ought the two experts to be appointed by the same authority, or by the public prosecutor and the defence respectively? It is held that fairness can be obtained even if the two are appointed by the Court, because the defence has the opportunity of cross-examination and of insisting on absolute demonstration. If an expert is named by the de-

fence he must be quickly appointed, because changes may take place which will greatly modify the judgment. During the life of a victim, for instance, in rape cases, the evidence of violence may disappear. Delays are dangerous. In chemical investigations the operations conducted by two persons will be even more difficult, because the processes take a long time and it will be difficult to have both parties always present. One can go on with other work while the slow evaporations, filterations, etc., are being carried on, but the other will not be able to do anything because he will be away from his own laboratory. If each chemist is to work separately it will be necessary to divide the viscera. These divisions are difficult. Poisons are not equally distributed. If the two experts agree it is all the more serious for the accused. In Germany, when the defence objects to the report of the commission, the question is referred to a higher one composed of distinguished specialists. This fact makes the court experts very careful in their report. This method is to be preferred to that which gives each side the right to appoint an expert.

Very extended training is necessary to constitute a medical jurist, and while we cannot expect encyclopædic knowledge, the expert should be impressed with the necessity of obtaining special aid in many cases. The character of instruction of French medical schools is not sufficient to qualify the physicians for the work of medical jurisprudence, particularly in such matters as death from drowning, hanging, asphyxia, or cases of rape. A case is detailed in which a young medical man gave evidence in a case of outrage that the hymen was destroyed. Dr. Brouardel found it intact. He re-examined the case in association with the young man, who returned to the court and acknowledged his error. When asked by the President Judge how he made such a mistake, he said "I have never seen the hymen. The women examined at the Clinics were always the subject of some disease that had destroyed it. Had I sought to examine

for myself in virgins I would have been guilty of outrage."

Autopsies conducted in hospitals and colleges are often very incomplete. The material of the Paris morgue is now utilized for the instruction of pupils. Education is also needed in the means of distinguishing spots and stains of blood, pus, etc. A case is given in which the examiner had mistaken fungi for blood. It is a mistake to suppose that questions of poisoning are chemical questions merely. The medical issues involved are great. It is to be regretted that since the days of Orfila there has been in Paris no official laboratory for the study of applied toxicology.

It is recommended that special courses of instruction be given, proof of such instruction being by diploma after examination. The following is given as an outline of the examination:

An autopsy with report.

Examination of an insane person and report.

Oral examination on other points. If the experts desire to practice toxicology also, the examination should include the analysis of specimens of poisoned viscera, adulterated food, and oral examination in general chemistry.

The fifth stated meeting was held at the Hall of the College of Physicians, on Tuesday evening, November 11, 1884, at 8 P. M., George W. Biddle, Esq., in the chair. An unusually large attendance of members and visitors was noted.

Dr. Charles K. Mills read a paper on "The Case of Joseph Taylor."

Dr. H. C. Wood read a paper on "The Absurdities of the Law as Illustrated in the Taylor Case."

These papers were discussed by Geo. S. Graham, Esq., Dr. Robinson, E. C. Shapleigh, Esq., H. L. Carson, Esq., Dr. S. Solis Cohen, Dr. J. H. Packard and G. W. Biddle, Esq. Drs. Wood and Mills briefly replied.

The following gentlemen were elected members: W. R. D. Blackwood, M.D., M. O'Hara, M.D., Wm. Hunt, Jr., Esq., W. H. O'Brien, Esq., Benj. Lee, M.D., R. C. Dale, Esq.,

Charles H. Thomas, M.D., Lemuel J. Deal, M.D., John H. Campbell, Esq., R. Loper Baird, Esq., Philip Leidy, M.D., A. T. Livingston, M.D., G. Betton Massey, M.D.

NEW YORK STATE MEDICAL ASSOCIATION.

The first annual meeting of this body was held last month in this city, and a large number of valuable papers were read. Among those of medico-legal interest were :

"The Management of Criminal Abortion," by Dr. W. H. Robb, of Montgomery Co., N. Y.

"On Chronic Mercurial Poisoning," by Dr. Charles Bulkley.

"Acute Lead Poisoning," by Dr Sabin.

"Insanity Preventive Measures," by Dr. John P. Gray.

The officers elected for the ensuing year were as follows: President, Dr. John P. Gray; Vice-Presidents, Dr. William H. Robb, Dr. J. G. Orton, Dr. Joseph O. Green, and Dr. Joseph C. Hutchison; Members of the Council for their respective districts, Dr. William Gillis, Dr. R. C. McEwen, Dr. Frederick Hyde, Dr. Darwin Covlin, and Dr. J. W. S. Gouley; Secretary, Dr. Caleb Green; Treasurer, Dr. John H. Hinton.

EDITORIAL.

Lunacy Reform in Great Britain.

The debate in the English House of Lords, as it appeared in the daily papers last May, illustrates the intensity of English feeling in regard to the Lunacy Statutes of that country; which contain many provisions, that protect the rights of citizens in the manner of commitments, and the rights of the insane, especially in the enforced and reliable supervision of Superintendents, and the insane, by the Board of Lunacy Commissioners, not embraced in or covered by our statutes. We give the report of that debate herewith, extracted from the *Journal of Mental Science:*

House of Lords—The Lunacy Laws.

The Earl of Milltown rose to call attention to the observations made by Mr. Baron Huddleston, in the case of "Weldon *v.* Winslow," and to move "that in the opinion of this House the existing state of the Lunacy Laws is eminently unsatisfactory, and constitutes a serious danger to the liberty of the subject." The noble Earl proceeded to quote from a summary of the facts of this case published in *The Times*. He would abstain from commenting on the merits of a case which was still *sub judice*, but he might be permitted to quote the opinions of Judges on the present condition of our Lunacy Laws. The noble Earl then read copious extracts from *The Times* reports of the judgments of Mr. Baron Huddleston on the trial, and of Mr. Justice Manisty on the application for a new trial. The Lunacy Laws of this country consisted chiefly of the statutes 8 and 9 Vict., chap. 100, and 16 and 17 Vict., chap. 96. Lunatics were in the eye of the law divided into two classes, paupers and non-paupers. The former class did not merely include paupers in the strict sense of the term, but a constable or relieving officer might arrest anyone found wandering abroad and bring him before a justice of the peace, and on the certificate of one medical man and the warrant of justices, for whose competence there was no guarantee, such a person might be incarcerated for life. Thus any one of their Lordships might be confined for life in that manner as a pauper lunatic. But if the lunatic was found to possess means, he was transferred to a licensed house. In the case of a non-pauper the certificate of two medical men was required. There were in this country 68,000 pauper

lunatics and 7,000 non-pauper lunatics. The state of the law was positively startling. Any person who could obtain certificates from any two out of the 20,000 medical practitioners on the register could consign any other person to incarceration in a madhouse, while no private person could obtain the release of such incarcerated individual without the consent either of the person who brought the incarceration about, or of the Lunacy Commissioners. Moreover, no criminal prosecution could be instituted for breach of the Lunacy Laws except by the Commissioners in Lunacy. The necessary certificate could be signed by any medical practitioner who had seen the patient for a single moment, and from his decision there was practically no appeal. In case of even gross cruelty being practised upon the patient, the police could not interfere because the order of the Commissioners was a sufficient warrant for everything that was done in the matter. In regard to the practice of keeping lunatics in private asylums, kept simply for profit, the whole system had been described by the noble Earl below him (the Earl of Shaftesbury) as utterly abominable and indefensible, and it certainly was one which ought not to exist in this age and country. He trusted an end would be put to the present intolerable state of things, and that a most damning blot would be removed from the Statute-Book (hear, hear). He concluded by moving the resolution of which he had given notice.

The Earl of Shaftesbury said their Lordships would at once perceive that his reply must be somewhat prolonged, so many were the details and charges made by the noble Earl who had just sat down (the Earl of Milltown). Had he (the Earl of Shaftesbury) not been on the Commission in Lunacy for more than 50 years, first as Acting-Chairman, and since 1845 as Permanent Chairman, he would not have interposed; but he thought it necessary, and almost a point of duty, to explain the state of things and calm the public mind. The special case of Mrs. Weldon could not then be discussed, as the matter was still *sub judice*. The lady had moved for, and had obtained, a new trial; and nothing at present could be said on the question. He wished, however, to state that the affair had never come before the Commissioners—their jurisdiction did not begin until a patient had been lodged within the walls of some licensed house. Neither did he know anything of the case, except what he had gathered from the newspapers; but it certainly had struck him that, if the evidence had been no stronger on the certificate, had one been sent to their office, than that which appeared only in general rumor, he, at least, should have been disposed to set the lady at liberty. But the *obiter dictum* of Baron Huddleston might come under observation. It was as follows, and taken from *The Standard*, 19th March, 1884:

"Now, I say distinctly, I wish I could treat this case apart from all technicality; but I must express my astonishment that such a state of things can exist, that an order can be made by anybody on the statement of anybody, and that two gentlemen, if they have only obtained a diploma, provided they examine a patient separately, and are not related to keepers of a lunatic

asylum, and that on this form being gone through, any person can be committed to a lunatic asylum. It is somewhat startling—it is positively shocking—that if a pauper, or, as Mrs. Weldon put it, a crossing-sweeper, should sign an order, and another crossing-sweeper should make a statement, and that then two medical men, who had never had a day's practice in their lives, should for a small sum of money grant their certificates, a person may be lodged in a private lunatic asylum, and that this order and the statement, and these certificates, are a perfect answer to any action "

Now, he was certain that if the learned Baron had known the law, or had read the Report of the Committee of the House of Commons printed in 1878, he would never have made such an observation. First, he spoke, after a very invidious fashion, of any two gentlemen who had obtained a diploma. His Lordship should have remembered that, by the amending Lunacy Act of 1862, the qualifications of those who were empowered to grant certificates were very stringent. It is said that the term physician, surgeon or apothecary, whenever used in the Lunacy Acts, should mean a person registered under the Medical Act of 1858; a person, therefore, of adequate professional fitness. He added, equally invidiously, that they might never have had a day's practice—possibly, though not probably—and, indeed, where practice in lunacy required as a qualification, we should not find one in 10,000 of the Medical Profession at present masters in the art. He closed by an assertion that these certificates were a perfect answer to any action. Where had the learned Baron found this law? Had he never heard of the case tried in the Courts of "Hall *v.* Semple," in which Mr. Hall, a liberated patient, prosecuted Dr. Semple for negligence in framing the certificate, and obtained damages to the amount of £150? There was a similar power against the person who signed an order of admission. Three years ago, the case of "Noel *v.* Williams" had been tried in Court. Mr. Noel, a discharged patient, sued his brother-in-law, Mr. Williams, who had signed the order; and though Mr. Williams obtained a verdict on every point, he had to bear the expenses of his defence, a sum which amounted to not less than £3,000. As to the order, he (the Earl of Shaftesbury) admitted that it was a weak point; theoretically, it was, no doubt, imperfect, though practically it had worked without any evil results. The history might be stated from his own evidence given in 1877—

"With regard to the orders, I understood your Lordship to agree that it is in some respects undesirable that a person, a perfect stranger to a patient, should sign the order; do not you think that where there is a case, and no near relative is to be found to sign the order, it would be desirable that the order for admission should be signed by some public official? I believe I explained the reason of the state of the order to be this—In the year 1845, when we were framing the bill, we were exceedingly puzzled as to what to do, so many cases had come before us of persons being suddenly seized in hotels, in lodging-houses, in mere apartments where there was nobody who knew whence they came or whither they were going; they were foreigners, Americans, medical students and law students, and all

sorts and sizes of people, travellers only resting for a night, and we were obliged to leave it in that way that any person might sign the order for admission into any asylum. I have no doubt, but I do not recollect it that we saw it was very imperfect, and that we intended to amend it, but we forgot it; and so little abuse arose upon it, and so very few bad cases came before us, that we totally forgot the matter."

Here, again, the learned Baron had put the case most invidiously. A crossing-sweeper, he said, might be called to sign an order of admission into a lunatic asylum. Well, but there were things so utterly improbable as to amount almost to impossibilities. The Queen might make a crossing-sweeper a Duke, and give him a seat in their Lordships' House; but did any of their Lordships fear such an issue? It was a weak point, no doubt, and required amendment; but in nearly 40 years there had been no complaint, and probably not one in 500 orders had been signed by any but some relative or friend. All this was before the Committee of 1859 and 1877, and they had not taken the formidable view of the learned Baron. They had accepted many of the propositions of the Commissioners, and had added some of their own, which were then wanting in enactment. And here he might add, in reply to the assertion of the noble Earl opposite, that the order could inflict perpetual confinement, that the Commissioners could, if they saw fit, set aside the order. But let their Lordships then consider the ominous announcement of the noble Earl, that the state of the Lunacy Laws constituted a serious danger to the liberty of the subject. The two Committees of 1859 and 1877 had come to no such conclusion; on the contrary, they had rejoiced in the many and vast improvements. How could they have feared for the liberty of the subject in the face of such a statement as that he had made before them? From 1859 to 1877 there had passed through the office of the Commissioners 185,000 certificates. Of these, some six or seven had demanded the attention of the Select Committee of the House of Commons; but all, upon investigation, were found to be just and good. During the same interval there had been 90,000 liberations, of which 22,000 were from licensed houses. The returns up to the present day were equally satisfactory, a sufficient refutation of the common assertion that persons thrust into private asylums would never get out. There were, he believed, fewer cases of mistake in placing patients under care and treatment than of miscarriages of justice in courts of law. The noble Earl ought, in candor, to have quoted that part of the Report in which the Select Committee had spoken of the vast and beneficial progress made in the treatment of lunacy. It was as follows:

"The Committee cannot avoid observing here that the jealousy with which the treatment of lunatics is watched at the present day, and the comparatively trifling nature of the abuses alleged, present a remarkable contrast to the horrible cruelty with which asylums were too frequently conducted less than half a century ago, to the apathy with which the exposure of such atrocities by successive Committees of this House was received, both by Parliament and the country, and to the difficulty with

which remedial enactments were carried through the Legislature, while society viewed with indifference the probability of sane people being, in many cases, confined as lunatics, acquiesced in the treatment of lunatics as if they were outside the pale of humanity, and would have scarcely considered a proposal to substitute for chains and ill-usage the absence of restraint, the occupation and amusement, which may be said to be the universal characteristics of the system in this country at the present day."

And, again, they said—

"Assuming that the strongest cases against the present system were brought before them, allegations of *mala fides* were not substantiated."

He could assure their Lordships, from long observation, dating back more than 50 years, that it would require much time, and much power of description, to set before them the state of degradation and suffering in which lunatics were found by the inquiry that commenced in 1828. Manacles and leg-locks were in universal use—many were chained to the wall, almost all in filth, disorder and semi-starvation. He mentioned all this to show that great and good things had been done under the existing Lunacy Laws; and that some gratitude was due to God for having given the will and the power to raise them from such misery. Now, he did not mean to say that perfection had been reached—very far from it; but he urged their Lordships to proceed with care and caution, following experience, and the discoveries of science, and not preceding them by hasty legislation, which might throw them back to the condition of half a century ago. But while they were considering, and jealously guarding the liberty of the subject, they must also consider the value and necessity of early treatment of insanity. On one point there was, it might be asserted, a consensus of opinion among all medical men, and, indeed, laymen, who had studied the question. Quotations of evidence to that effect might be multiplied, almost without limit. Dr. Sutherland maintained that if cases were taken at the very commencement of the disorder, full 85 per cent. might be cured. Dr. Connolly stated certainly not less than 50 per cent.; but the whole might be summed up in a most valuable extract from the Report of Mr. Ley, the Medical Superintendent of the great County Asylum at Prestwich, in Lancashire—

"'The total number,' said Mr Ley, speaking of a particular year, 'of curable cases in the 446 admissions was 209; 113 of these have been sent out recovered, and, in all probability, 70 more will be discharged during the current year. Eighty-nine per cent. of the total recoveries occurred in those who were admitted while the attack was yet recent; only 11 per cent. are from those who were allowed to remain without proper treatment for a long time after the malady had declared itself. The duration of residence in these recoveries varied from four weeks to twelve years, the average duration being much augmented by the recovery of some few who had resided in the asylum above a year.'"

This was his summing up, and this was the summing up of every medical man he knew.

"'These results,' Mr. Ley continued, 'prove what has so often been urged before, that insanity in its early stages is as curable a disease as any other in the catalogue of human disorders.'"

The evidence from America was abundant and equally decided. Though he would not add anything to the law to give facilities for the shutting up of persons under the charge of insanity, so fearful was he of the possibility of error, he would do nothing to diminish them. He spoke in the interest of the patient, for whom a cure thus became comparatively easy, and in the interest of the world at large also, who had a deep concern in the abatement of that terrible disorder. The impediments were grave and numerous already—the reluctance of parents and relatives to see, and then believe, the first symptoms of a disturbed intellect; the serious step of consulting a medical man on the point, even though he were the physician of the family; the fear lest anything should transpire, and the public be admitted in any way to the sad secret; all these feelings postponed the final decision, until by long continuance the affection had become almost hopelessly confirmed. If, then, that repugnance existed under the present system, what would it amount to were the magistrate called in or a jury summoned, who never allowed anyone to be mad unless he had committed some overt act whereby the disorder was proved to be nearly inveterate? Here the pauper had a great advantage over the class above him. He was taken to the asylum in the first stage of his affliction, and hence the public asylums claimed the superiority in the number of cures. Certainly, the tables showed that it was so, though, perhaps, by reason of the very early discharge, there were many cases of relapse. Too long detention after cure had been urged against the licensed houses. In former days it might have been so, but by no means always with a bad motive. He did not believe that many such cases could occur in the present day. He did not deny the difficulty—he might say the perilous difficulty in attempting to undertake early treatment—of discerning between a transient eccentricity of habit, manner or temper and the slight symptoms of incipient mental disturbance. An error on either side was deeply injurious. The error which led to the confinement of the patient might inflict, though the patient was speedily removed, the taint of supposed insanity; but the error which denied the necessity of it might inflict a greater harm, and fix on the patient the malady for ever. It demanded almost superhuman sagacity, and showed how necessary it was to be cautious, to avoid hasty legislation, and await the further developments of that important branch of science. He feared that all the proposed enactments that tended to increase publicity, and render impossible that amount of privacy that was naturally and justifiably demanded in these delicate matters, would tend to a vastly extended system of clandestine confinement. Single patients, as they were called, were persons living alone under restraint, and committed to the charge of a doctor, a clergyman, or an attendant. When two or more,

being lunatics, resided under the same roof, the law required that a license should be taken out ; where only one, a certificate. There was great difficulty in the discovery of such cases ; many of them were put out on the false plea that they were nervous, not lunatic, patients, and, therefore, not subject to the law. Evidence of their existence reached them in a variety of ways ; and on such evidence, if sufficient, an application was made to the Lord Chancellor for a power to visit the house. The Commissioners, in 1862, had visited 161 single patients ; but in 1884, they had visited 449, an increase in 20 years of 288. How many more there might be he could not say, so secret were they, and so scattered over the whole country. It had been asked in the House of Commons whether it were not true that many were sent abroad? On that point the Commissioners could give no information. Now, the state of these single patients demanded the utmost thought and attention. Care and inspection, it was true, had greatly mitigated their lot ; but the peculiarity of the circumstances exposed them, on the slightest relaxation of vigilance, to a return of all the evils and oppressions of former days. The condition of these sufferers had, in former days, been most deplorable ; their treatment might have varied according to the position and character of those who had charge of them ; but, in the great bulk of the cases, it was, beyond doubt, fearfully oppressive. He had it on the personal testimony of those who had endured the solitary incarceration. One lady asserted that she was frequently strapped down on her bed for 24 hours, while her nurse went out on a junket ; a gentleman had assured him that he had endured the same, and showed the scars on his legs made by the cords wherewith he was confined. If visited, these poor people had then but small relief ; they had none to bear witness to their testimony ; and every statement they made was attributed by the attendant to mental wandering Now, then, these patients were singularly unhappy ; for, in houses where many patients were received, any one patient had the supporting evidence of his fellows ; for, though the testimony of a patient in respect of himself was oftentimes very questionable, the testimony of patients in respect of others was very good, and had oftentimes been received in Courts of Justice. He had said more than once, and he repeated it, that were anyone of his own family visited by that sad affliction, he would infinitely prefer to consign him or her to a licensed establishment than to the care and treatment of a single custodian. Their Lordships would easily perceive that the temptations, the payments being oftentimes very high, and the facilities for long detention and delay of cure, must, under such a system, be very great. The last point on which the noble Earl opposite had commented was on the principle, character, and condition of private asylums, or, as they were properly denominated, licensed houses. The noble Earl had quoted some strong passages given in evidence by him (the Earl of Shaftesbury) before the Committee of the House of Commons in 1859. Now, he did not vary, in principle, one hair's breadth from what he stated at that period ; and the noble Earl

would have done well to have given his explanatory evidence in 1877. It was as follows :

"Your Lordship said, in answer to the honorable member for Mid-Surrey, last Thursday, Question 11,449, that it was a notion prevailing in many minds that the principle of profit in regard to the treatment and maintenance of lunatics in private asylums should be eliminated—Yes ; it should be, if possible, no doubt. If I recollect the Question put to me by the Right Honorable Chairman, it was as to the establishment of hospitals, and I answered that I thought it would be a good principle to make the hospital system the basis of the system for the reception of patients of all kinds, but that I should be very sorry to do anything that should go to the total prohibition of licensed houses ; because, though I believe the operation of the hospital system might probably tend very much to reduce the number of licensed houses, I had strong conviction that those that survived would be of the very highest character. It is absolutely necessary we should have some licensed houses, because many have a particular taste that way, and because there is a form of treatment there that you never could have in any public asylum. You say you are ready to admit it is a notion that prevails in the minds of a great many people, but the sooner that is eliminated the better?—Yes, no doubt. That idea has grown up from evidence given to the public mind, and not often from personal knowledge?—Yes, and I judge of it from conversation, and from what I read, and what I hear. I know that that feeling does prevail in the public mind, and naturally enough. I do not blame the public for it ; and, indeed, I very much praise the public jealousy upon the subject. Perhaps your Lordship remembers the evidence you gave in 1859, in which you condemned the vicious principle of profit, as you called it, perhaps more strongly than anybody else?—Yes ; I condemned it very strongly, and I condemn it nearly as strongly now ; and, therefore, I want to put as great a limit upon it as I possibly can. Your Lordship has modified your views upon this subject?—Yes ; to this extent—the licensed houses are in a far better condition than they were in every possible respect ; but I have said, and I wish to repeat, that if we were to relax our vigilance the whole thing, in every form of establishment, would go back to its former level."

The Committee of 1878 had reported that the permitted continuance or discontinuance of licensed houses must be left to public opinion ; and it was certainly remarkable that, though there were perpetual expressions of dislike and fear of such receptacles, no steps were ever taken, or even proposed, to provide substitutes. Since 1859, hospitals had not increased in number ; two had been added ; but that was only apparently so, those two having come into separate existence by disconnection from the asylums of Gloucester and Nottingham. Nevertheless, the feeling of the country would continue, he doubted not, to prevail in favor of the public principle, which, when established, would require, he could assure their Lordships, no small amount of care and supervision. In illustration of what he had said, he might put before their Lordships the present state of private and hospital

accommodation. The licensed houses amounted, in all, to 97 ; 35 in the Metropolis, and 62 in the Provinces. The hospitals for lunatics proper were 13 ; for idiots, 2. The increase of licensed houses in the Metropolis since 1859 was 1 ; the decrease of provincial houses in same time, 15 ; but that might be accounted for by their greater size. The inmates in hospitals were 3,146 ; in licensed houses, 4,779 ; making a total of 7,925. Of that total, 1,398 were paupers, leaving thus, of paying patients, 6,527. He could not conclude without recalling their Lordships' attention to the vast, he might say the blessed, improvements, made in the custody and cure of the insane, an answer, in itself, to many reckless and ignorant charges. Let them only consider the present treatment of the pauper lunatic. They had often seen, no doubt, those palatial buildings, the public asylums, erected solely for the poor. Every mode of a physical or moral character was resorted to for the charge and cure of these unfortunate beings. Their diet, their apparel, their residential comforts, were of the best quality. Their amusements were not forgotten ; and occupation, adapted to their line of life, was regarded as among the most remedial processes. The women were engaged in employments of all kinds suited to their sex, and agriculture was esteemed so beneficial to the men, that land to the extent of 200 or 300 acres was assigned to many of the provincial asylums. All was minutely and carefully visited by constituted authorities, as he would show by the statement which followed. It exhibited not the maximum, but the minimum, of the visitations—

Public Asylums, County and Borough.	Two or more of Committee of Visitors.	Once at least every two months.
	Two Com'rs in Lunacy.	Once a year at least.
Hospital.	Members of Committee of Management.	Various—according to Regulations approved by Secretary of State—generally once a month.
	Two Commissioners.	Once a year at least. Twice of late years, by special Resolution of Board.
Private Provincial Licensed House.	Two Visitors at least, one to be Medical.	Four times a year.
	One Visitor.	Twice a year ("Single Visits.")
	Two Commissioners.	Twice a year.
Metropolitan Licensed House.	Two Professional Commissioners.	Four times a year.
	Any one Commissioner.	Twice a year.

All this had been effected by degrees, by the results of observation, by the applications of experience. The contrast between 1828 and 1884 was well nigh incredible. All they required was care and caution, and that legisla-

tion should follow, and not precede, the guidance of practical science. But the appeal for such caution was met by hasty and nervous agitation. They had reason on their side, but it was encountered by nothing but expressions of fear. While of all the maladies that afflicted mankind, none were so intricate and appalling as those which disturbed his reasoning facilities, there were none upon which the public at large were more prompt to give an opinion, and enforce a remedy. He could only again and again implore the deepest and most serious consideration on such a subject. They were now in a far better state of hope for progress in scientific knowledge. A large association of intelligent and right-hearted men had come into existence, formed of the superintendents of the great asylums and others who gave their time and their minds to that important study. They had their conferences, their meetings, their periodicals, and interchange of thought and inquiry. The services of these gentlemen were priceless—every day added something to the stock of facts, and on facts alone could treatment advance. He trusted that by investigation and patience they would be able, by God's blessing, to arrive at some alleviation, if not a full remedy, for the most mysterious affliction that had been permitted to fall on the human race.

Lord Coleridge pointed out that the resolution was of a somewhat abstract character, and remarked that in that House, as elsewhere, debates on such resolutions were likely to be in some sense debates in the air. Nevertheless, because he had a good deal of experience of cases connected with the subject, and very much also in consequence of the speech of the noble Earl who had just spoken, he would say a very few words. The resolution had reference not to the profoundly interesting question of lunacy itself, but simply to the practical administration of the laws affecting the detention of persons supposed to be lunatics. The system administered in this country owed its origin to the noble Earl who had last sat down, and it was difficult for anyone who had not arrived at his age to adequately comprehend the enormous improvement made by the measures of 1845 and 1853 in the system, if system it could be called, which was in existence before that time. For that great improvement he believed we were mainly indebted to the noble Earl opposite. But 1853 was more than 30 years ago, and it was no discredit to the noble Earl to say that the experience of 30 years might have taught us that in that system there was a good deal to be amended. In many cases the system, though excellent on paper, broke down in practice. In the great majority of cases it was absolutely clear to the intelligence of any ordinary person who was moderately acquainted with the matter that the individuals confined were insane ; and in another large class of cases it was equally clear that the persons whom it was proposed to confine were not insane. It was on the dividing line that the real difficulty arose, and then the system, though excellent on paper, broke down. If we could, as in France, deal with a man's property by means of a family council, there would be very little to be said, but in this country no such system existed. For the reason that here it was a question of per-

sonal liberty, it was extremely important that care should be taken that the system by which persons were incarcerated should be watched with the severest jealousy. His noble friend had probably misunderstood the judgment of the learned Baron, who must have known that though a certificate was a defence to the keeper of the asylum, it was no protection to those who had set the doctors in motion. He had himself known of ten or a dozen cases at least where the system had broken down. In some of these cases persons who were not insane had been imprisoned, while in others insane persons had been so outrageously treated that juries would have been with difficulty prevented from giving verdicts against the persons who set the law in motion. He recollected that in a case that came before himself it was shown that a person had been committed to a private lunatic asylum on certificates of medical men who were interested in the asylum, and that, although the man had been afterwards formally discharged under their certificates, he had been re-arrested within ten minutes afterwards on others. He had no doubt that in that case, however, the person confined was a fit subject for confinement. The jury who had tried the case were naturally indignant with a state of the law which allowed such proceedings. His experience with regard to private lunatic asylumns had not been a happy one. It was unfortunately the case that medical men possessing the highest minds did not devote themselves to this particular class of disease, and, moreover, it was repugnant to such men to mix themselves up with a system which combined commerce and trade with their profession. In his opinion it should never be the interest of the keepers of private lunatic asylums to retard a cure (hear, hear). It was unfortunately the fact, as had been shown by the statistics referred to by the noble Earl, that the percentage of cures effected in the county lunatic asylums was far larger than that which was effected in private lunatic asylums. In the former it was clear that it was not the object of any one to retain a patient longer than was absolutely necessary, because the maintenance of such a patient was a matter of cost and not of profit, whereas in a private lunatic asylum the interest was the other way. He could only say that his experience led him to believe that it was unwise to hold out inducements to the keepers of private lunatic asylums to retain their patients as long as they could (hear, hear). It had been said in reference to this class of disease that a medical man would have just as much reason to effect a cure speedily as in the case of any other class of disease ; but it must be remembered that the inducement was not the same, because such cases were not likely to be talked about among the friends of the patient.

The Lord Chancellor said that if he asked their Lordships not to agree with the motion of the noble Lord it was not because he thought that the Lunacy Laws were not capable of improvement or amendment, for such was not the opinion of the noble Earl at the head of the Lunacy Commission nor of those who had investigated the subject, but because he thought it would be very unwise on a subject of so much importance and difficulty to pass a resolution condemning too severely the existing system of the

Lunacy Law as being eminently unsatisfactory. He fully admitted that there were many things in our Lunacy Law which were not as satisfactory as they might be, but he was sure that their Lordships would be most anxious to preserve an equally-balanced mind in dealing with a subject of such difficulty and importance and not run the risk of defeating a salutary object for the sake of obviating conceivable and possible, but in his opinion highly theoretical, dangers. It must be remembered in the first place that the Lunacy Laws were meant for lunatics and not for sane people, and that they must be such as were calculated to deal wisely and properly with the lamentable fact that there were at all times a large number of persons requiring treatment for mental diseases. When the Commissioners made their report in 1878 there were over 66,000 lunatics, and it was probable that at the present time that number had increased. These unhappy persons must be dealt with, not only for their own sakes, but for the sake of the community at large—for their own sakes in order that they might be cured, and might not become the prey of designing persons, and for the sake of the community that they might not, being at large, become dangerous to other persons as well as to themselves. In these circumstances, wise and proper laws, humanely administered, are necessary as safeguards by which the safety of lunatics and of the community at large could alone be secured. Looking to the result of every public investigation which this matter had received, and especially to the last careful examination in 1878, he thought it was too much to say that the proportion of cases in which there was any reason to suppose that abuses took place was infinitesimally small in comparison with the cases in which the present law had been properly administered. It had been said that there was too dangerous a facility for bringing persons into confinement as lunatics who might not be so, and that under the existing system, there was a temptation to persons who had an interest in doing so to retain them. There might be persons who wished to shut up their relatives without sufficient grounds for doing so, and such persons might be able to find two medical practitioners to assist them by giving certificates of lunacy. These were undoubtedly points requiring careful attention, and as to which every safeguard which did not go too far in the opposite direction ought to be adopted. It should be remembered that some of the cases which were investigated by the Lunacy Commissioners were absolute breaches of the law, and no system of law, however good, would prevent persons from committing a breach of it. It was worth while to consider whether it was not possible to amend the present law, and so diminish the probability of abuse in its administration, without throwing too great an impediment in the way of a proper administration of the legislation on the subject generally. The Commissioners, in their report of 1878, showed the system in operation in Scotland of what were called emergency certificates, and suggested an amendment in the law in that direction, and without binding himself to those suggestions in every detail, he thought that some amendment in that direction was worthy of consideration. In the meantime it must not be forgotten that there

were checks and safeguards under the present system—medical certificates and visitations, both by the Lunacy Commissioners, and by Visitors appointed by the Court of Chancery, none of whom had personal or pecuniary interest in the cases which they had to visit and inquire into (hear, hear). Careful reports were made, and in any case to which special attention was called these reports were inquired into. He thought everything that could possibly be done was done by the visits of the Commissioners and the Visitors. He had frequently seen letters from unfortunate patients, in which they stated their own views of their own cases; and he always desired, where the matter justified it, special reference to be made by the Visitors in such cases, and he was bound to say that the letters themselves contained, as a rule, internal evidence of some unsoundness of mind; and in some cases, where they were not satisfied, further inquiry showed that, although the unfortunate persons were capable of acting and writing like sane persons, yet, at other times, not only were they of unsound mind, but positively dangerous. With regard to private asylums, to which the noble Lord (Coleridge) referred in terms which he should not controvert, but which he could not corroborate, because he had little knowledge, still some of them, and not a few, were conducted by men of the highest character. He was sure the noble Lord must feel that the subject was one of the most difficult character. The decision at which the Committee of 1878 arrived was that the matter had better be left to the spontaneous action of the public. Some thought these private asylums should be immediately abolished, and others thought that they met an acknowledged want, and so forth. The matter was very much debated, and a Bill by Mr. Dillwyn was passed in the other House, but it failed to pass through their Lordships' House. Another member of the House of Commons moved a resolution that all lunatics should be brought under the care of the State, and that was rejected by a large majority. There were circumstances which could not be left out of consideration. Those lunatics who had considerable property were entitled to have their comfort provided for as far as possible. They must be put into the care of some persons, whether they kept licensed houses or not, to whom the expenditure must be entrusted. The inquiry which had been held by the Committee showed that no serious abuses existed, and he must say that their hearty thanks were due to the noble Earl (Shaftesbury), his colleagues, and also the Visitors, for their great labors (hear, hear). They provided the most effective safeguards that could be devised. He would not dwell on the safeguards, but he should undertake, on the part of the Government, if they continued to possess the confidence of Parliament, that in another session they would bring forward a bill, of which the object would be to consolidate the existing law with such improvements as were recommended by the Committee of 1878, and others which might occur to them as advisable. He hoped, under the circumstances, the noble Earl would not divide the House on his motion.

The Marquis of Salisbury thought that, after the announcement just

made, his noble friend would consider that the useful objects of his motion had been attained, and would not press it to a division. The debate to which the motion had given rise was of a very valuable character, and he did not think the existing Lunacy Laws would survive the blow they had received from the noble and learned Lord opposite. The subject was one which was extremely difficult, but he thought every one who had listened would agree that the securities for the liberty of the subject under the Lunacy Laws were very much less than were granted in every other part of the law of England. It was said that they must make lunacy laws for lunatics. That was all very well, but the very gist of the complaint was that occasionally sane people were detained. There were two classes of very obvious motives. There were people who would want for their own motives to get rid of relatives whom they might find inconvenient, and whose property they might desire to secure. Motives of that kind were familiar in fiction, but he feared that they were not altogether strange in real life. On the other hand, there was a strong motive in the keeper of a private asylum to keep wealthy patients, showing a tendency to recover, on account of the rich harvest of profits. These were very great and strong influences. What facilities did the law give them? As far as the initial stages of confining lunatics were concerned, it seemed to him the law was no security (hear, hear). Any person, no matter how deep an interest he might have in shutting you up, had a right to take any two doctors he could find, no matter how obscure, and get an order to shut you up. Who could say there was any security in the initial stages? The whole defence of the present system lay in the inspection conducted by the Lunacy Commissioners, who had certainly acted with very great assiduity and success. He entirely agreed with the noble Earl as to the great debt of gratitude they all owed to the noble Earl the First Commissioner and those who worked with him—it was impossible to exaggerate the debt the country owed to him in his conduct of that difficult and thorny part of the law (hear, hear)—but the older guardians of English liberty would have been startled had they been told that a man's liberty was entirely dependent on the vigilance of a department. The great defect in the administration of these laws was the absence of publicity. If the doctor had to go before the magistrate, or the inspection of the Commissioners was so public that any one concerned could witness what was done, then there would be an adequate security for that liberty which now entirely rested upon the high administrative and moral qualities shown by his noble friend and his colleagues. Under these circumstances no one would say that the state of the law was satisfactory when that was the sole defence for its present state, and the motive for abusing the law was sometimes so strong. It might be said that if this publicity were insisted upon the necessary result would be that the feelings of families would in many cases lead to clandestine imprisonments taking place. He considered that the noble Earl had made out his case, and shown that the state of the law was not satisfactory. On the other hand, after his noble friend's declaration that legislation would

be proposed by the Government, he thought the motion might properly be withdrawn (hear, hear).

After a few words from Lord Stanley, of Alderley,

The Earl of Miltown, in view of the proposal of the Government to introduce legislation at a future date, agreed to withdraw his motion. His object had been more than gained by the discussion that had taken place and by the promise he had obtained from the Government. He was still of opinion that the arguments in favor of his motion were unanswerable.

The motion was then withdrawn.

The English Government recognize the existing evils and promise to bring in a bill at the coming session to remedy them, and it is now engaged in investigating the system of various countries, including some of our American States, in the preparation of the promised measure.

We shall look forward to the new measure with great interest. Meanwhile, what shall be done in New York to remedy the acknowledged evils of our system, and how shall this question be best met and discussed outside of the demands of popular excitement and distrust of the present system? The position taken by the Special Committee of the Medico-Legal Society, as to the proper course to be pursued in this State, must commend itself to the attention of legislators and publicists throughout the American States.

Now, that the Presidential election is happily over, it may be that our Legislators will consent to look at the question, and we do not doubt that the acting Governor will take the whole subject up in his forthcoming message to the Legislature, so that we may arrive at good results in the State of New York.

We need enforced visitation and inspection by a competent Board of Lunacy Commissioners, with supervision over superintendents, upon a basis that will make abuses practically impossible, and we need organic changes in the manner of commitments that would make the incarceration of a sane person impossible by process of law.

Expert Testimony.—The Editor of the *New York Medical*

Times, in commenting upon the management of the Rhinelander case, makes the following remarks upon expert testimony :

There is a growing feeling of distrust in the minds of the community against the present manner of employing experts in cases involving life and liberty, with a conviction that justice is not always reached. The expert should be an officer of the Court, paid by the State, appointed by the Governor, and selected for his intimate knowledge of the questions to be brought before him. His testimony would go upon record for future reference, and involve to a certain extent his reputation as a scientist. The question would be studied in all its bearings, with ample opportunity for investigation, from the standpoint of science, and solely in the interest of justice. Opinions prepared in this way would be of real value, and would do much to aid judge and jury to form a correct conclusion. Let us have a board of experts, officers of the Court, paid by the State, and do away with a procedure which often defeats the ends of justice, and is a disgrace to our civilization.

That some system of expert testimony should be devised by our law-makers better adapted to the ascertainment of fact, is much to be desired. Much of the differences that occur in trials between medical witnesses, results from the carelessness of the Judges in admitting evidence of witnesses who claim to be experts, who are not so in fact.

The rule of law should be more strictly enforced as it now stands. Every physician is not an alienist, and should not be suffered to testify as an expert, without a thorough practical knowledge of the subject. If in cases of insanity those who have not had practical knowledge of and contact with the insane, should not be allowed to testify as experts. Much of the scandal comes from physicians setting themselve up as experts, who have never had charge of an asylum, or had any practical knowledge or experience with the insane.

Medical students who graduate, and cram on the literature of insanity, neurology and psychiatry, and even assume to write treaties on insanity, who have never had charge of asylums, are not necessarily experts, and if the courts did their duty would not be allowed to testify as such. The judicial tendency is reprehensible in allowing such wit-

nesses to testify, leaving it for juries to estimate and define the value of their evidence. It is this very element that creates the doubt and embarrasses verdicts and the administration of justice.

Practical knowledge and treatment of the insane, combined with actual contact and careful observation and study of cases, are indispensable in an expert, in case of insanity. None others are competent, and courts err who admit them to testify as experts.

Abortion and Infanticide.—The Atlanta *Medical and Surgical Journal*, in making a strong plea for legislation to reduce criminal abortion and infanticide, states that the records of the year 1883 in that city, shows that eleven cases of infanticide occurred, evidenced by the finding that number of dead bodies of newly born children, and that six bodies of newly born children had been found up to August 16, 1884, to which no clue could be found, and all clearly cases of infanticide.

It is more than probable that similar results would be found in the records of other American cities, especially where no foundling asylums are located, nor institutions where mothers are received and cared for in such cases—making the temptation to infanticide less than where the mother has no refuge or middle ground between exposure and disgrace, on the one hand, or infanticide or suicide on the other. The social question raised by the Atlanta editor well deserves our serious consideration and attention.

Strict enforcement of the laws will not always give the desired remedy, but these laws should be still enforced.

The problem is, what can society do that has not been done, to diminish infanticide and abortion.

Of the latter crime, it is doubtful if more cases do not now occur in legal than in illicit intercourse. Physicians are, perhaps, the best judges of this, and some of our best informed incline to the latter opinion.

It seems more judicious and more humane to surround woman with such safeguards that she need not kill either herself or her child when maternity comes as the sequence of her first sin. The fear of punishment for infanticide or abortion would hardly deter any one from the sin which, in many cases, results in one or the other of these crimes, to avoid the disgrace.

Enforcement of laws are good, but do they give us a sure remedy, and how is society benefited by forcing the betrayed girl to the dark plunge in the river, rather than to go to prison for the killing of her offspring.

Should Incurable Insanity in any Case be Good Ground for Divorce?—This question has occupied public attention and deserves thorough discussion.

In the circular of inquiries addressed by the late Attorney-General Russell and Prof. Ordronaux, when State Commissioner in Lunacy, to judges and persons whose opinion was desired, the question was put as follows:

"Whether permanent insanity, requiring the confinement in an asylum of either a husband or wife continually during seven years, and being adjudicated thereafter as probably incurable, shall constitute a valid ground for divorce; providing that in case of the insanity of the wife she shall not thereby forfeit her right of dower by reason of any decree dissolving the marriage?"

It will be remembered that the permanent commission of the Medico-Legal Society, in making responses to this circular, did not answer this query, beyond the statement that the members of the permanent commission were divided in sentiment, the majority being opposed to any change in our law recognizing insanity in any form as a valid ground of divorce.

In considering the question, it would be well to include a provision, that in case of the insanity of the husband, he should not thereby forfeit his right to take as tenant by the courtesy in case of living issue of the marriage.

Marriage being declared by law to be a civil contract, it is claimed on the one hand, that incurable insanity, which necessitates constant confinement in an asylum, legally breaks the contract, because an insuperable bar is placed to the continuance of the terms and conditions of the contract by the state of insanity. Physical inability to perform an ordinary contract on the part of one of the parties, the effect of which would be to completely end and terminate it, or render its consummation impossible, would, of course, relieve the other party from responsibility.

A contract of partnership, which required mutual services or supervision of the business, would, of course, be legally terminated by the incurable insanity of one of the partners. This would be analogous to the contract of marriage, where mutual duties, acts and responsibilities, form the basis of the original agreement, and where the inability to perform, on the one part, would be against the deprivation of marital rights and duties on the other. Upon legal principles, if the social, religious and moral questions were eliminated from the discussion, such a disability would, perhaps, be conceded to work an inevitable dissolution of the marriage contract.

The opponents to this view, however, claim—

1. That the original agreement contains an express stipulation that illness or disease (which must embrace insanity), should not terminate it.

2. That society would be unfavorably affected by increasing the causes for which judicial separations could be decreed by the courts.

Cases of extreme hardship constantly occur, which warp our judgments and incline us to embrace the views most in accordance with our wishes.

Case 1.—A marriage is contracted where the husband had been insane and confined in an asylum, but recovered and entered business, and accumulated a moderate fortune. He married a lady much younger than himself, who was ignorant of his previous insanity, and who bore him children.

The disease recurring, in an acute attack, he attempted her life, his delusions became so dominating and intolerable that he was again restrained, and grew gradually worse until he was finally pronounced incurable. The character of his madness is such that it is not thought wise to allow his children to see or visit him, and the delusions such that he imagines the most intolerable views of his wife and family, who, notwithstanding all, continue the kindest and most tender care and watch of him, providing him with the best of attendance, in one of our first-class asylums.

The marriage was interrupted by this calamity when the wife was still young, beautiful, highly accomplished, and at the commencement of a brilliant, social career. In this case the wife is advised by counsel that the fact of the insanity occurring before marriage, which must have been intentionally concealed from her, would vitiate the contract, under existing law; but why should this wife be denied a divorce, and what good is gained to society, to the incurable himself, to the children or to any person by perpetuating this marriage? From her side, her whole life is blighted by no fault of her own, and one cannot see how any view can be taken of any evil result to follow from a divorce in this case, even if it was followed by the re-marriage of the wife. Of course this should only be allowed on the condition that suitable provision be made by the wife for the care of the husband during his life, and all legal questions as to money considerations, rights to landed estate or property eliminated from the case.

Case 2.—Marriage of two persons well mated and crowned with an interesting family. The wife becomes incurably insane. The husband and family are unable to give her personal care, as her mania is homicidal with suicidal tendencies. Unless restrained she will kill not only her children but her husband. Away from them she is calm and develops only suicidal mania, requires constant watching and personal attendance. The sight of husband or children increases her excitement and occasions always a violent

attack, which depresses her for weeks, and from which she rallies slowly. This is a hopeless case, without chance of recovery.

What does society, the family or the husband gain by a continuance of the marriage relation?

Should such cases furnish legal and valid grounds for divorce, and should our laws be so modified as to recognize incurable insanity in this or any class of cases as ground for dissolution of the marriage contract?

Dr. Hack Tuke.—We had the pleasure of a call from Dr. Hack Tuke, on the eve of his sailing for England, and regretted that he did not remain longer in New York, as there was a great desire on the part of members of the Medico-Legal Society to meet and entertain this distinguished alienist and author.

Dr. Hack Tuke made only a flying visit to this country, and gave most of his time to visiting institutions for the insane, of which we shall, no doubt, see the results in the *Journal of Mental Sciences*, of which he is one of the accomplished editors.

Alcoholic Paralysis.—Prof. Charcot, of Paris, in a lecture delivered last August at Saltpetrière, gave the credit to the Swedish author, Magnus Huss, of first calling attention to paralysis in chronic alcoholism, and claimed that Prof. Lancereaux's description of this form of paralysis in the article on "Alcoholism" in *Dictionnair Encyclopedique des Sciences Medicales* in 1864, was the first attempt at a description of the disease.

Prof. Charcot recognizes this malady and illustrated it by clinical cases at the lecture.—(*Gazette des Hospitaux*, Aug. 28, 1884).

Locomotor Ataxy or Tabes, Is there Such a Disease?—Dr. Samuel Wilks, of London, in a letter to the *British Medical Journal* (November 1, 1884), commenting upon the paper of Dr. Althaus, denies the existence of any definite

pathological condition to which these terms, as usually understood, can be applied. The letter of Dr. Wilks reviews the paper of Dr. Althaus, discusses the subject briefly, but pointing his remarks to symptoms and cases there cited, and from his own practice, raises the question for discussion.

We shall watch with interest the views of American as well as European observers upon this question.

WM. P. LETCHWORTH ON STATE BOARDS OF CHARITIES, FEMALE PHYSICIANS IN ASYLUMS AND LUNACY REFORM.—Hon. William P. Letchworth, President of the New York State Board of Charities, pronounced an address as President at the National Conference of Charities and Corrections, held at St. Louis, Mo., October 13, 1884, from which we make a few extracts. In speaking of the true mission work and functions, and of the proper composition of State Boards of Charities, he says:

> These boards should be so organized as not to relieve local boards of trustees of the full responsibility for the proper management of their trusts. In the discharge of its functions, a State Board should aim to strengthen confidence in well-conducted institutions. Its organization should be such as to make its judgments impartial and its criticisms intelligent and fair, and thus, while correcting abuses when found to exist, through its hold on the public confidence, be able to protect deserving institutions from sensational attacks and shield them from unreasonable prejudice.
>
> The efficiency of such boards does not depend so much on the extent of power conferred by legislation, as in their moral power wisely and carefully exercised. They should educate rather than discipline, and not attempt the enforcement of legal measures without previous enlightenment of the public mind.

These are broad and wise views, and merit the recognition and commendation of the charitable public, and all who are interested in charitable work.

In speaking of the reforms wrought in charity work within the last quarter of a century, he alludes to the changes wrought in lunacy reform and care of the insane, as follows:

> It is within the memory of most of us that the insane were treated with the same severity as criminals. It was thought by many that they were in a great measure responsible for their acts and so punishable for their mis-

deeds; that their condition was self-imposed, and therefore out of the range of sympathy. They were confined in strong rooms, or, as was sometimes the case, in stone dungeons, not infrequently manacled, chained to walls and floors, and otherwise treated with the extremest rigor. Great, however, as has been the change affecting this most unfortunate class of our fellow beings, I think we are now entering upon an era of still broader beneficence, and that the improvement soon to come will embrace the highest aims of philanthropy and the soundest principles of science—a time when our laws respecting committal and discharge will be so perfected that violations of personal liberty will not occur, and the persons and property of the mentally diseased shall be fully protected; when the doors of an insane asylum shall open outward as freely as inward, and there will be no more reluctance to place those suffering from mental ailments in a hospital for the insane than in any other; when popular views respecting these institutions will not stand in the way of early treatment and consequently more hopeful cure; when the gloomy walls, the iron gratings and prison-like appearance now characteristic of many of these institutions will disappear and simpler, home-like structures, with a more natural life and greater freedom for the patient, with healthful outdoor employment and recreation diversified with indoor occupation and simple entertainment, will take their place; when the truth that "the laborer is worthy of his hire" shall be recognized, and patients performing labor shall feel that they have some recompense, however trifling, for their services; when in every hospital there shall be trained nurses and women physicians for female patients; when the moral element shall be co-equal with the medical element in treatment; when gentleness shall take the place of force, and the principle set forth by the founders of the Pennsylvania Hospital, that the insane, "should be regarded as men and brethren," shall become universal; and finally, a still more blessed time, when there shall prevail throughout society an intelligent idea as to the causes which produce insanity, and prevention shall largely obviate the necessity of cure.

Mr. Letchworth is a strong advocate not only of female physicians as superintendents of the female departments of insane hospitals or asylums, but of trained female nurses, in hospital and charitable institutions, and for female influence and labor on boards of managers of all charitable institutions where women or small children are the beneficiaries of the charity.

He brings to the discussion a ripe experience, and, while recognizing the popular prejudices upon the subject, urges its importance and value with great force. The late Dr. Gross was a strong believer and advocate for

female physicians in asylum work. Mr. Letchworth's views will find favor with many who are familiar with the practical workings of hospital and asylum work, but the profession and the public are still prejudiced against it, to a considerable extent.

MESSRS. VANDERBILT AND LANKENAU'S GIFTS.

We give copy of William H. Vanderbilt's letter conveying his recent gift of $500,000 to the College of Physicians and Surgeons of this city:

Dr. John C. Dalton, President of the College of Physicians and Surgeons:

My Dear Sir: I have been for some time examining the question of the facilities for medical education which New York possesses. The doctors have claimed that with proper encouragement this city might become one of the most important centres of medical instruction in the world.

The health, comfort, and lives of the whole community are so dependent upon skilled physicians that no profession requires more care in the preparation of its practitioners. Medicine needs a permanent home where the largest opportunities can be afforded for both theory and practice. In making up my mind to give substantial aid to the effort to create in New York city one of the first medical schools in the world, I have been somewhat embarrassed as to the manner in which the object could be most quickly and effectively reached. It seems wiser and more practical to enlarge an existing institution, which already has great facilities, experience, and reputation, than to form a new one. I have therefore selected the College of Physicians and Surgeons, because it is the oldest medical school in the State, and of equal rank with any in the United States.

I have decided to give the college $500,000, of which I have expended $200,000 in the purchase of twenty-nine lots, situated at Tenth avenue and Fifty-ninth and Sixtieth streets, the deed of which please find herewith; and in selecting this location I have consulted with your Treasurer, Dr. McLane. The other $300,000 please find enclosed my check for. The latter sum is to form a building fund for the erection thereon, from time to time, of suitable buildings for the college. Very truly yours.

New York, Oct. 17. W. H. Vanderbilt.

This gift entitles Mr. Vanderbilt to the thanks of every citizen of the country.

He has done his duty and the College now must place their facilities for students second to no university in the world, or they will defeat his purpose, which we may rest certain they will not willingly do.

A still more munificent gift has been made to the German Hospital of Philadelphia, by its president, Mr. JOHN LANKENAU, of the completely constructed and equipped hospital building, costing, with the grounds, upwards of six hundred thousand dollars. These are the noblest gifts to the advancement of science of our time.

RECENT LEGAL DECISIONS.

INTOXICATION as a habit considered as engendering disease which exonerates from criminal responsibility, is discussed in the *American Law Register*, N. S., Vol. 23, 227; also the relevancy of the intoxication as to the question of intent or motive.

In State *vs.* Castello, Iowa, Dec. 11, 1883, 17 Northw. Rep., 605, the Sureme Court of Iowa had occasion to consider the effect of intoxication upon a witness. The defendant was convicted of manslaughter in an affray originating in intoxication, which resulted in the death of one Solberg. The comrade of the deceased, named Clauson, who was a witness for the State, was shown to be in an intoxicated condition at the time of the fight, and admitted it in his own testimony, which was reasonably clear and direct. He testified, in effect, that he had a distinct memory of the affair. In directing the jury as to the effect of the witness' condition upon his credibility, the Court used the following language: "The fact that a witness present at the death of Solberg, and testifying as to facts, was under the influence of liquor to any extent, does not affect his credibility, if you find that at the time he was testifying he distinctly remembered the facts as they occurred. It is the truth that the law seeks, and the condition of the witness is immaterial, except as a means of determining his ability and desire to know and tell the truth. And if the witness now remembers the facts, and you believe he tells them truthfully, it does not matter what was his then condition."

The appellate court held that this instruction was correct.

Beck, J., in delivering the opinion of the court, said: "It does not follow that the capacity of observation and the powers of memory are destroyed by intoxication which is not to the degree producing stupor. While it must be admitted intoxication does not destroy credibility, it undoubtedly impairs it. But if the evidence of one who was intoxicated at the time of the occurrences of which he testifies is corroborated, or his memory of the transactions appears to be distinct and clear, he is entitled to belief. This is the purport of the instruction just quoted. The district court gave to the jury other proper directions applicable to the case, which enabled the jury to determine the weight to be given to Clauson's evidence."

LIBEL.—Perhaps the latest case of interest to this JOURNAL or its readers, is the threatened suit of Marsh *vs.* THE MEDICO-LEGAL JOURNAL for libel.

The subjoined correspondence will explain the precise status at the present moment.

We do not know what course the learned counsel, Mr. Wm. Allen Butler, will decide upon taking. We can only wait events—relying upon the justice of our cause.

We are advised if Brother Marsh does sue, to rely upon that celebrated defence so strongly recommended by the elder Weller in a somewhat analogous case, "*an alibi.*"

TRINITY BUILDING, 111 BROADWAY, Sept. 25, 1884.

MY DEAR MR. MARSH: I offer you my services to redress the "wrong and injury" done you in the September number of the MEDICO-LEGAL JOURNAL, by placing at its front the portrait of a blooming youth, with flashing eye and curling locks, and at the end of the number a biographical sketch of a veteran practitioner, born over three score and eleven years ago; and, while artfully avoiding any direct statement that the portrait and the sketch refer to the same individual, excluding every other reasonable presumption by the words of description affixed to the one and prefixed to the other.

The unblushing effrontery of supplementing the juvenescence of the portrait by the septuagenarianism of the memoir, could only be equalled by the atrocity of heaping upon the youthful advocate represented by the picture, a weight of years disqualifying from election to the bench, and indi-

cating that repose on his laurels is more befitting than the fierce strifes of the forum. The whole thing is evidently a malicious libel, to create the impression that you have been imposing on a credulous community, either by looking so young or by claiming to be so old. This is actionable, *per se*, because it injures you in your profession, by deterring that portion of the public who prefer a young lawyer from retaining you on account of your age, and those who prefer an old lawyer from retaining you on account of your youth. I am ready to draw a complaint, or an indictment, as you shall elect, to proceed civilly or criminally, and, awaiting your instructions, I am, ever yours,

WM. ALLEN BUTLER.

LUTHER R. MARSH, ESQ.

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48 WALL STREET, October 12, 1884.

MY DEAR MR. BUTLER: Your generously proffered championship, in the matter of the libel in the last number of the MEDICO-LEGAL JOURNAL, awakened in me emotions of gratitude. Although I have not, till now, replied to your letter, yet the letter has not been idle; for many a lawyer, and many a friend, has, with me, enjoyed the nobility of the offer, and the exquisitely beautiful mode of its communication. My delay in acknowledging your kindness has been caused by a hesitation as to which of the charges of the libel I had better elect to sue for.

If for both, then they might claim that the allegations of extreme youth, and of extreme age, should be regarded as nullifying each other, and thus leave me to stand half-way between them, in the crowning fullness of strength and manhood, which could be no slander.

If I prosecute because they have charged me with callow youthfulness, they might reply that I might gladly give Pitt's response to a similar charge; *i. e.*, "The crime of being a young man I shall neither attempt to palliate or deny;" and thus prove it to be a case of "*damnum absque injuria.*"

If I count on the charge of age, they might justify, and call the plaintiff to the stand; then, if they should inquire into reminiscences, dear me, I should be compelled to swear to memories, which, though pleasant, are quite remote; that, at Utica, I had often seen and heard Benjamin Butler, your accomplished father—Attorney-General under old Hickory—before the old Supreme Court; and when, as I thought, and yet think, no man ever trod the carpet of a court-room with a more knightly grace, or spake more mellifluously. On the platform, too, he was superb.

Indeed I would have to swear that I had argued the very last case presented to that tribunal, before its expiration under the old constitution.

I am yet doubting which of the contradictory charges of the libel to count on, ere we launch out on the troubled sea of litigation.

It all comes, I imagine, from the malignity of President Clark Bell, who makes me thus seem a man divided against himself.

I am afraid, too, that if I rely on the charge of age, they may show it another case of damage without injury; for, they could prove by me, that

age is happier than youth, and therefore more enviable; that every advancing year opens new avenues of enjoyment, and reveals new vistas of genuine pleasure, unknown before. Thus do I find it; and, trusting that old Time, as he may come to you, bringing full-eared and well-earned sheaves of honor and satisfaction, will verify my statement, and unveil to you rich and unsuspected sources of happiness, to the end, I am, as ever, sincerely thine, LUTHER R. MARSH.

WILLIAM ALLEN BUTLER, ESQ.

JUVENILE OFFENDERS.—Lord Chief Justice Coleridge, of England, in charging the Grand Jury at Bedford, England—

Lately took occasion to remark on some of the methods by which society manufactures crime. One of these, he insisted, was the unreasonably severe punishments which are too commonly allotted to small offences against propriety. If such excessive punishments should be awarded to the petty pilferer, there is no kind of severity which the law can, with relative adequacy, administer for the greater and more serious crimes. Commenting on a case in which two little boys had been sentenced to three months' hard labor for stealing apples, after a previous conviction, he said that it was monstrous to make these boys felons for life for having done what some of the best men in the world had done, and for which they certainly deserved to have their ears boxed, but not to be sent to prison with hard labor.—*London Medical Times.*

The rod in the family or at school, properly administered in the old-fashioned way, notwithstanding the growing disinclination for, and prejudice against, is far more efficacious as a moral and social correction than judicial sentences of children for petty offences. We concur with the English Chief Justice in his views—many a boy is ruined at home by that neglect of judicious parental correction, which might have saved a wayward child from becoming at last a criminal.

LIABILITY OF MEDICAL MEN.

An astonishing ruling has, according to the reports of the German medical journals, been recently made by the courts of that country on a point of alleged malpraxis. In April of the present year a serving man was wounded in the chest with a knife, and was treated by a practitioner without antiseptic precautions. The man died from septic poisoning, and the practitioner was arraigned on the charge of culpable homicide, which was upheld by the magisterial court on the ground that a medical man should be so far abreast with modern science as to avail himself of the recognized rules of treat-

ment, and that in the case in question the practioner should have been aware that the procedure adopted by him might lead to the death of his patient. The Reichsgericht, being appealed to, confirmed this decision. In view of the wide differences of opinion still obtaining among practitioners in England and America regarding so-called "Listerism," one cannot help thinking what havoc would be made with professional reputations and pockets were such a cause recognized in either of the latter countries as a fit ground for legal interference.—*Boston Medical and Surgical Journal.*

We can conceive of cases, especially in hospital practice, where the physician would be held responsible at law for non-observance of antiseptic precautions.

We doubt if there would be two opinions among medical men as to the deserts of that physician who did neglect them, in cases where the death was clearly from blood-poisoning instead of the wound.

The Rhinelander Case.—This case presents remarkable features, and will be a *cause celebre* in many respects.

(*a*). It is the second attempt in this city by a person accused of crime, to deliberately deny the plea of insanity interposed, not by himself or his counsel, but by the District Attorney, acting at the instance of the family and friends, and have himself adjudged sane, so that he could plead to an indictment charging him with crime. The former case was the celebrated one of Geo. Francis Train, almost identical, save that the latter case was tried by a jury, and not by commissioners, as in the Rhinelander case, but with a similar result, now that Recorder Smythe has sustained the view taken by Commissioner Edward Patterson, overruling the decision and opinions of the other two commissioners, and holds Rhinelander to be sane enough to plead, and holding him to bail.

(*b*). The ruling of Mr. Recorder Smythe is a legal decision that the finding of commissioners in such cases, appointed by the court to hear such issues and report the evidence with their conclusions to the court, is not conclusive, and that the court has power to reverse and overrule their de-

cision and opinion, and determine the question of sanity or insanity from the evidence and from all the proceedings in the case.

(*c*). The importance of the legal questions involved, the surroundings of the parties, and the public interest in the accused and his family, make it probable that the legal questions will be reviewed in the higher courts.

The court, in deciding the case, fully endorses the views and reasoning of Mr. Patterson, which is too long for our columns.

This case was assigned for discussion at the October meeting of the Medico-Legal Society, but the decision not having been announced, its discussion was postponed for that reason.

(*d*). Under the decision of the court, Rhinelander must now be tried upon the indictment.

As there is no doubt of the act of shooting, if sane he will be without a substantial defence. The counsel who have labored so strenuously to establish his sanity will now, if Recorder Smythe is sustained, be required to defend him on the trial of the indictment. It remains to be seen what their line of defence will be.

In the case of Train, defendant's counsel called on the trial of the indictment the same witnesses who had been subpœnaed and sworn by the District Attorney at the prior hearing, who, of course, swore that Mr. Train was insane.

The District Attorney then refused to controvert this evidence, and the jury, under the direction of the Court, acquitted Mr. Train, the Court directing the form of the verdict by adding "on the ground of insanity," to which the jury refused to assent, but which was nevertheless entered by order of the presiding judge, who committed the accused under the statute to an insane asylum.

A third jury was then called by Mr. Train's counsel, under the provisions of another statute, upon the allegation that Mr. Train was committed to an insane asylum and was sane

at the time of the application, and on this trial he was declared sane and set at liberty.

The Rhinelander case may be terminated in a similar manner. The questions involved excite profound popular interest, and will, no doubt, come up before the Medico-Legal Society for discussion.

TOXICOLOGICAL.

Poisoning by Canned Goods.*

By Thomas Stevenson, M.D.
Government Toxicological Analyst, London, England.

"Acute metallic poisoning by canned provisions is not known to have certainly occurred in this country, though the consumption of those goods is enormous. It is probable that chronic lead-poisoning may have occurred through contamination of the canned articles, but such cases have not been recorded. Now and then cases of acute poisoning occur, traced to the use of canned meats; but there is every reason to believe that this has occurred only where the food was tainted or bad. An inquest was held in 1883 in Pimlico, a district of London, where it was alleged that death was due to nitrate of tin, and it is said that a tin (or can) of meat was shown, from which, by corrosion, tin had been removed from the iron beneath; but I am not aware that any analysis was made confirmatory of the supposition. In February, 1884, several cases occurred in Glasgow of poisoning by a tin (can) of provisions, the symptoms being those of gastro-enteritis. Analysis showed that the food contained traces only of tin, but this is the rule in canned goods, and tin-poisoning was disproved. I have been Government Toxicological Analyst for thirteen years, but have never myself met with acute metallic poisoning by canned foods.

"Dr. Johnson arrives at very positive conclusions on altogether insufficient data.† His remark that the faded appearance of the tomatoes is accounted for by the chlorine

* Read before the Medico-Legal Society of New York, November 19, 1884.

† "Poisoning by Canned Goods," by J. G. Johnson, M.D., *Medico-Legal Journal*, vol. 2, No. 1, p. 53.

in the chloride of zinc, shows that he has failed to grasp the chemistry of the subject on which he writes. That canned goods usually contain traces of tin has been shown by several British chemists, and is a well-established fact, That such provisions do not usually produce any serious illness is a matter of common experience. I have myself experimented on the subject, and have fed dogs for weeks together with food contaminated with tin compounds without injury. I have also watched the effect of the daily use, for a lengthened period, of tin-contaminated food by adult persons, also without obvious results. I am not prepared to say that tin compounds are inert, but evidence is wanting to show that the daily ingestion of fractions of a grain of tin compounds is manifestly injurious to health.

"LONDON, Oct. 10, 1884."

MEDICO-LEGAL ASPECT OF THE COMMA-BACILLUS.

Science proves not unfrequently a two-edged sword, supplying forces equally potent for evil as for good. Dr. J. A. Irwin calls attention to a possibly dark side of recent microscopical discovery, which illustrates this aphorism, and may open a new and most complex field of criminal toxicology.

"If," he remarks, "the micro-organisms of specific disease possess the powers and characteristics attributed to them—if, for example, the comma-bacillus of Koch is endowed with a vitality capable of resisting long trusted disinfectants and all but extremes of temperature, of surviving in moist mediæ, under almost all conditions for a month or more, and of reproducing itself indefinitely when introduced into the human intestine, thereby inducing cholera—a disease so frequently fatal—does not this knowledge place in the hands of the accomplished evil doer an easy method of terrible crime, and one which would be especially difficult of conviction.

The answer must be affirmative, and further carries with it the admission of a danger far more serious than the sacrifice

of a single life. But the theories of Koch are as yet far from being established.

Pasteur and other equally competent observers hold widely different views. Lewis has found the comma-bacillus in the saliva of healthy persons, and Van Dyke Carter in the stools of ordinary diarrhœa; while Dr. Klein, now working at Bombay, has swallowed a quantity without any evil result; Maurin and Lange claim to have discovered a cholera mucor distinct from the bacillus of Koch; and, finally, the French Commission at Marseilles is reported to regard a softening of the hæmoglobin, causing changes in the blood corpuscles, as the initial lesion of cholera.

Under these circumstances, and it being still problematical that the whole field of zymotic fever is of specifically bacterial origin, it may seem premature to discuss dangers so remote, more especially since thorough discussion might demonstrate too plainly possible perversions of valuable knowledge.

At the same time it would be absurd to ignore a real danger, and if it is proved that the micro-organisms of disease may become a weapon in criminal hands, the whole subject will need careful study by medical jurists.

PTOMAINES.—By Thomas Stevenson, M.D., F.R.C P. Lecturer on Chemistry and Medical Jurisprudence at Guy's Hospital, &c., corresponding member of the Medico-Legal Society of New York.

In 1880, the Italian Government appointed a Commission to investigate the alkaloidal bodies discovered by the late Professor Selmi in 1872, and to which he applied the term ptomaines, a nomenclature now pretty generally adopted. This Commission included Professor Selmi himself, and Professors Cannizzaro, Guareschi, Moriggia, Mosso, Paterno, Spica and Toscani. A few papers have already appeared from the hands of individual members of the Commission, including one from Selmi, who in 1880 described (*Bull. delle Scienze Mediche Bologna*, 1880, pp. 35, 81) the physical properties of the hydrochloride of a basic body resembling conine. Its physiological effects, however, were similar to those of curare, a result confirmed by Th. Husemann (*Arch. der Pharm.*, vol. xiv, p. 327; xvi, pp.

169, 187; xvii, p. 327; xix, pp. 187, 415; xx, p. 270). In 1881, Armand Gautier (*Moniteur Sci.*, tome xi, pp. 572, 732) showed the basic character of the ptomaines by their power to neutralize acids, and by the formation of crystallisable chloroplatinates, like those furnished by the alkali-metals, ammonia, and alkaloids, generally. In the same year, this observer, in conjunction with Etard (*Compt. Rend.* tome xciv, pp. 1298, 1357) showed that putrefaction begins with the evolution of nitrogen, that various schizomycetous organisms then develop, which attack the albuminoid bodies, with evolution the hydrides of sulphur and phosphorus; whilst leucines, leucinines, skatol, indol, carbylamines and ptomaines are formed. By fractional extraction of putrid liquids with ether, they obtained two bases, having the composition expressed by the formulæ $C_9 H_{13} N$, and $C_8 H_{15} N$, respectively.

Nencki (*Journ. der Prakt. Chemie*, Band xxvii, p. 47) claims to have separated the ptomaines from the products of the decomposition of gelatin by pancreatic tissue; and from one analysis of the chloroplatinate of a base he deduced the formula $C_8 H_{11} N$.

L. Brieger (*Berlin Ber.*, Band xvi, pp. 807, 1186, 1405) obtained ptomaine-reactions from peptones prepared by acting on egg-albumen with gastric juice; but the base could not be separated. The extracts, nevertheless, were poisonous. From a fermented magma of horseflesh in water, he obtained the hydrochloride of a base, $C_5 H_{14} N_2$, crystallizing in needles; but he was unable to isolate the base itself from its salt. Doses of seven or eight grains of the hydrochloric were only feebly toxic to rabbits. The mother-liquid from which the salt crystallized was, however, more poisonous, and is stated to have contained the salt of a poisonous base, $C_5 H_{11} N$, isomeric with piperidine.

E. and A. Salkowsky (*Berl. Ber.* Band xvi, pp. 119, 1798) obtained from putrid flesh and fibrin a base which they analyzed, and to which they assign the formula $C_5 H_{11} NO_2$; but it was not poisonous, and is probably not a ptomaine, but an amide of valeric acid.

The labors of Guareschi and Mosso (*Achiv. Ital. de Biologie*, 1883) are most important, tending to discredit much of the previous work done in this field, and to condemn Dragendorff's method for separating the alkaloids in medico-legal analysis. They find that commercial alcohols are seldom so pure as not to contain bodies reacting like alkaloids; that commercial ether and chloroform need purification; and that ordinary amyl-alcohol and benzene contain pyridine. All experiments made with unpurified reagents are hence necessarily valueless. This circumstance may, perhaps, serve to explain the differences between observers, some of whom have been able, and others unable, to obtain similar results when working with like materials. From so much as eighty pounds of putrid human brains, only insignificant quantities of ptomaines were obtained—too small for analysis; and these, in doses of one-fifth grain to five grains, given to frogs subcutaneously, produced effects like curare, though it required the larger of the above doses to kill the animal. Experiments made with

guinea-pigs convinced the authors that the ptomaine of human brains could not be confounded with any known poison in toxicological investigations by its effects upon animals.

From the putrefaction of enormous quantities of fibrin, there resulted a base, with alkaloidal reactions, and forming double platinum and gold salts. The composition of this base is represented by the formula, $C_{10}H_{15}N$, or $C_{10}H_{13}N$.

The discrepancies in the analytical results are not satisfactory. On frogs and birds, the extracts containing this ptomaine acted like that obtained from putrid brains. Moreover, fresh brains yielded to Guareschi and Mosso, by the Otto-Stas method, small residues giving the general reactions of alkaloids. Beef, too, yielded minute residues with similar reactions. Fresh materials yielded almost no ptomaines. Dragendorff's method of extracting the alkaloids, in which dilute sulphuric acid is used as the solvent, resulted in more alkaloidal extracts than the Otto-Stas method; and there is no doubt that the method of Dragendorff manufactures, so to speak, alkaloids, Coppola (*Gazz. Clin. Ital.*, vol. xii, pp. 11, 511) also has confirmed these results. He found that fresh dog's blood extracted by Dragendorff's method yielded abundant alkaloidal reactions; not so when extracted by chloroform. The large quantities of putrid material required to be operated on—often one or two hundredweight—to obtain ponderable quantities of a ptomaine, and the small toxicity of the substance thus obtained, except when employed in large doses, show that the probability of a ptomaine being mistaken for a vegetable alkaloid by a careful worker according to the Otto-Stas method, is remote.—*British Medical Journal.*

Poisoning by Sulphate of Copper.—It is not often that cases of acute poisoning by blue vitriol are recorded. At the last session of the Central Criminal Court, a servant-girl, aged 17, was convicted of producing grievous bodily harm on her mistress, by administering sulphate of copper in some beer, which was found to contain $39\frac{1}{2}$ grains of the salt in $5\frac{1}{2}$ ounces of beer. A portion of a glass only was taken, when its taste and color were perceived. The symptoms produced were a metallic taste in the mouth, constriction of the fauces, nausea, vomiting, abdominal pain, and diarrhœa. Oil and demulcents were successfully given as remedies, but it was several hours before the poisoned woman recovered. The minimum fatal dose of copper is not known with certainty; but half the quantity found by Dr. Dupré in the small glass of beer would be a decidedly toxic dose.—*British Medical Journal.*

PHOSPHORIC ACID.—M. Maidet has expressed his belief that phosphoric acid is intimately connected with the nutrition and action of the brain.—*Hardwick's Science Gossip.*

AVENIN.—Recent experiments show that oats contain a substance, easily soluble in alcohol, which has an irritant action on the motor cells of the nervous system. It is a nitrogenous substance apparently of an alkaloid character. The quantity present varies according to the quality of the grain and the soil on which it is grown. The darker varieties contain more than the light. Its composition is given as $C_{56}\ H_{21}\ NO_{18}$. The bruising and milling of the oats diminishes the quantity of this substance very rapidly, but it is quicker in its action.—*Hardwick's Science Gossip.*

CHEESE POISONING IN MICHIGAN.—At the recent quarterly meeting of the Michigan State Board of Health, the Secretary, Dr. Henry B. Baker, continued his report on this subject. Seven outbreaks within the State had been reported during the year, one hundred and ninety persons having been affected in all, but none fatally. The symptoms were very similar in all the cases, consisting of pain in the stomach, muscular cramps, coldness of the extremities, and great prostration, with violent retching and purging, lasting for several hours. In most cases, the larger the amount of cheese that had been eaten the more violent were the symptoms. Specimens of the Lowell cheese had an acid reaction and a peculiar, strong odor, believed to be due to caprylic acid or captoic acid. Examined with a one-tenth-inch immersion objective, this cheese was found to contain the mycelium of a mold, and to be swarming with several kinds of bacteria in active movement. Specimens had been sent to Professor Vaughan, of the University of Michigan, and to Professor Burrill, of the Illinois State Industrial University, for further examination and experiment.—*New York Medical Journal*, Nov. 1, 1884.

JOURNALS AND BOOKS.

MEDICAL JURISPRUDENCE AND TOXICOLOGY.—By Prof. John J. Reese, of Philadelphia. P. Blakiston, Son & Co.: Philadelphia, 1884.

Prof. Reese has compressed into a single volume of 600 pages the essential and leading features of Toxicology and Medical Jurisprudence, intended not only as a handy text-book for students, but a work of ready reference on any leading subject to members of both professions, law and medicine.

He has the peculiar faculty of writing in such a style as to charm and interest his readers, and one can read the volume with as much interest as a work of fiction. In this regard, he more resembles Caspar in style, than any other on Medical Jurisprudence we can now recall.

For the physician in general practice, for the Coroner, for a Judge or District-Attorney, who in a trial desires, during its progress, to look up a particular point, we do not know a more convenient or handy book of reference, or one that is more reliable.

Prof. Reese has kept pace with scientific progress in the science, and his hints and suggestions on the various topics are fresh, and in line with the advance of modern scientific investigation.

He divides his work into forty chapters, the first thirty-four of which are devoted to essays on the proper methods of investigation, where death has occurred from other than natural causes, embracing the whole field of inquiry at Coroner's inquests and judicial investigations. being deaths from violence, drowning, fire, asphyxia, lightning, starva-

tion, suicide, and the whole field of poisons and toxicology, which is the substantial body of his work.

He treats in chapter 32 of Feigned Diseases, and the succeeding four chapters are devoted to Pregnancy, Abortion, Infanticide and Legitimacy or Inheritance, and these subjects are discussed with marked care and ability. He gives a chapter to Rape, one to Medical Malpractice, and one to Life Insurance, and considerable space to the question of insanity, which he treats in eight different sections, giving a general resume of its various forms and manifestations.

His chapter on the Medico-Legal Relations of Insanity, and his advice to physicians as to certificates in lunacy cases, drawn fresh from the new law of Pennsylvania, is certainly the best advice we have ever seen given, to the general practitioner of medicine or to the specialist.

It would be well if every physician would carefully read this part of Prof. Reese's work, as to the duty and responsibility of physicians in the matter of certificates, and the proper method of conducting examinations of alleged lunatics, before commitment to asylums.

On the question of Legal Responsibility of the Insane, Prof. Reese does not favor sentimental ideas as to the irresponsibility of insane persons. He condemns the English rule in the McNaughton case, making the knowledge of right and wrong, and the ability to discriminate regarding it, with a knowledge of the consequences when confined even to the act, the true test of responsibility.

He cites more approvingly the doctrine of Mittermaier, who regards the *will* as the more important factor, and agrees with the views of Maudsley and others who condemn the test as laid down by the English Judges to the House of Lords.

He condemns the idea of Impulsive or Emotional Insanity as a defence for crime, and discredits the propriety of a legal irresponsibility based upon alleged sudden impulse, when sanity is conceded immediately before and immediately after the act.

Prof. Reese makes no attempt to add his definition of Insanity to the list already too long; a subject which so many writers conceive it to be necessary to do. He adopts the classification and nomenclature of Ray, and his views are plainly given and can be easily and well understood by all. There is no vulgar display of assumed learning; and his ideas are not buried in, or covered by, abstruse technical, and what may be called grossly absurd scientific, terms and nomenclature, which is a marked vice, in some at least of the modern literature on these topics. He defines Medical Jurisprudence to be that Science which applies the knowledge of Medicine to the requirements of Law.

On the whole, Prof. Reese's work will be greatly valued, and more highly appreciated by the general practitioner of medicine, by the lawyer, and the student of forensic medicine in both professions, than by the specialist, the advanced alienist, or those who have given extensive study to any special branch of the science.

It is much more valuable even in this aspect, as a contribution to Toxicology on its Medico-Legal side, than in other respects. It is not an abler or a better work than Taylor on Poisons, nor was it intended as such, or even as a substitute for it; but we do not know a work in so compact a form, that we would more freely recommend to the average physician in general practice, for an immediate and ready reference to all the leading heads of the science, than this admirable treatise of Prof. Reese. It is not the effusion of a beginner, who has attempted to re-classify and and re-arrange a science, out of the study of a dozen authors, old and new, as an introduction of himself to the older men and workers in Forensic Medicine, but, like Dr. Clouston's work, is the result of a practical knowledge of subjects, based upon the ripe experience of a long life devoted to the subject of which he writes, and is therefore valuable as a practical treatise by an experienced teacher and observer. It has much of the merit, as well as the

charm, we used to feel at Dr. Beck's admirable treatment of the subject, in the olden time, but is, of course, newer, and fresher to the non-expert, and much more compact and easily handled.

Annales Medico-Psychologiques (November, 1884). The President, M. Ach. Foville, pays a tribute to Geo. L. Harrison's volume of the Lunacy Laws, which he reviews. M. le Dr. Motet's paper to the Society on the "Proposed law Concerning the Insane in Italy," is given in full, analyzing the proposed law presented to the Italian Chamber of Deputies, by the President of the Council and Minister of the Interior, Signor Depretis. Among the important sections we notice:

1. That the appointment of Medical Superintendents of Asylums must be approved by the Government (Minister of the Interior) (Art. 2), who is always responsible to that officer.

2. A thorough system of regular and systematic inspection and supervision is exercised by the Minister of the Interior over all Superintendents of Asylums (Art. 20 and 21).

We regret not having space for the full text of the proposed Italian law.

The Société Medicale Psychologique has lost by death, during 1884, three of its former Presidents, viz.: Moreau (de Tours), Dr. Du Mesnil, whose death was announced to the body at its session of 27th October by the President, M. Ach. Foville, in an extended address, and M. le Dr. Girard (de Callieux), who died October 21, 1884, at his residence (Isère).

The number contains extended reviews of American, English and German Journals.

Littell's Living Age.—The numbers of the *Living Age* for November 15th and 22d contain, Memoirs of the Earl of Malmesbury, *Edinburgh;* The Nature of Democracy, *Quar-*

terly; Pascal's "Pensees," *British Quarterly;* Has the Newest World the Oldest Population? *London Quarterly;* Modern Quakerism, *Modern Review;* Coleridge's Intellectual Influence, Changes in Diet and Medicine, Carlyle on Religious Cant, and The Place of Art in History, *Spectator;* Queen Margerie, *Chambers;* Italian Summers—a Praise of Indolence, *Saturday Review;* Carlyle in London, *Athenæum;* Wolf-Hunting in England, *Antiquary;* with instalments of "Beauty and the Beast," "At any Cost," "Tommy," and "Checco," and poetry.

For fifty-two numbers of sixty-four large pages each (or more than 3,300 pages a year) the subscription price ($8) is low; while for $10.50 the publishers offer to send any one of the American $4 monthlies or weeklies with the *Living Age* for a year, both postpaid. Littell & Co., Boston, are the publishers.

Evolution of a Life.—(S. W. Green & Co., New York.)—12mo. 1884. A singularly interesting book. Major Eyland weaves his personal reminiscences so closely into the web of our recent war times that interest does not flag, and you are loth to drop the work, once taken up, until you have finished it.

Revue de Medicine—Paris. Directeurs, MM. Charles Bouchard, J. M. Charcot, A. Chauveau and A. Vulpian. Redacteurs-en-chef, MM. L. Landouzy and R. Lepine. We are glad to acknowledge the receipt of all the numbers for 1884 of this valuable review, which appears monthly, and which we welcome to our exchange list.

The journal contains a collection of valuable original articles on most interesting and important medical topics by distinguished men. It also contains interesting medico-scientific facts as they occur, and a review of works on medical science.

The February number reviews Dr. R. Stintzing's Monograph on Nerve Stretching.

The March number reviews Dr. W. Gower's Treatise on Epilepsy, as translated by Dr. A. Carrier at Paris, also Dr. Carrier's Clinical Lectures upon Epilepsy, with the Clinical Researches of Bourneville, Bonnair and Waillamie, also Dr. O. Jennin's translation of Prof. Weir Mitchell's treatise on Treatment of Neurasthenia and Hysteria.

The later number contains reviews in the Department of Pathology, Physiology and Electricity.

On the whole it is a most valuable journal for physicians in general practice and ably illustrates and reviews the practice of medicine.

PHYSICIAN'S VISITING LIST.—P. Blakiston, Son & Co., Philadelphia, issue a neat, handy pocket visiting list, adapted to the use of physicians, which is well worth trial by practising physicians generally.

It is in form like a pocket diary, and contains a complete diary for professional visits, besides reference tables of great value and importance to physicians. Our idea is that a Doctor who has once tried them would always order them afterwards.

ARCHIVES DE TOCOLOGIE DES MALADIES DES FEMMES, ET DES ENFANTS NOUVEAU-NÉS.—Editors-in-chief, Prof. Charpentier, of the Faculty of Medicine of Paris, and Dr. De Soyre, with an able corps of collaborators of distinguished obstetricians of Paris.

This is a monthly journal, and the numbers from January, 1884, to November, are upon our table. It contains original articles upon remarkable cases, a review of current literature upon the subjects to which it is devoted, and a review and notice of the transactions of the leading obstetrical societies of all the world.

The intimate relations which this department of Medical Science bears to Medical Jurisprudence, particularly in cases of Abortion, Infanticide, the term or period of gestation, via-

bility, presumption of life at birth, Puerperal Mania, and all forms of insanity traceable to uterine troubles, make this journal of value in these relations to Forensic Medicine, and to the readers of our JOURNAL. We shall hope to notice cases of Medico-Legal interest as they arise and are reported. We are glad to add this journal to our exchanges.

HANDBOOK OF GREEK AND ROMAN SCULPTURE.—By D. Cady Eaton, formerly Professor of Art in Yale College. James R. Osgood & Co., Boston, 1884.

This work is a revised and partly translated edition of Carl Frederics Bausteine, a collection of descriptions of the Casts in the Berlin Museum. Mr. Cady Eaton has succeeded in the difficult task of making a text-book readable. This edition is enlarged and enriched from valuable sources. The style is crisp, and to the point, making the description attractive to the student and refreshing to the ordinary reader. All in all, it would be a valuable addition to all public libraries, and would be highly prized in such private collections as give place to art treatises—while it will be appreciated as a text book by students of art.

Dr. J. Minus Hays, the accomplished editor of the *American Journal of Medical Sciences*, contributes an admirable memoir of the late Prof. Saml. D. Gross to the July number of that journal.

THE AMERICAN JOURNAL OF INSANITY.—The July and October numbers of this journal are almost entirely occupied with the transactions of the Association of Medical Superintendents of American Institutions of the Insane and the papers read before that association at the annual meeting held at Philadelphia, May, 1884. The July number contains the Presidential address of Dr. Gray on "Heredity," Dr. Henry Putnam Stearn's paper on "Progress in the Treatment of the Insane," and the transactions and debates

in full of that association. Dr. Gray's views on "Heredity" are, to say the least, different from those generally entertained, concerning which we may give our views hereafter. The proposition expressed that "Parentage cannot impress upon offspring even a tendency or a predisposition to insanity" may be correct, but is not so generally regarded by scientists of either profession; and similar views on germane questions, by so prominent a teacher, merit discussion which will, no doubt, follow this paper. Dr. Stearns reviews the general conduct and management of the insane, in their treatment for the past fifty or sixty years. This he does not confine to the cure of the disease, or to the general medical treatment, but refers rather to the moral treatment of insanity. His paper is confined to American asylums, and he contrasts the treatment by the earlier alienists, quoting Drs. Earle, Woodward, Tregevant, of South Carolina; Rutherford, of Lenzie Asylum; Bell, of McLean Asylum; Kirkbride, Ray, Todd, of Hartford Retreat, as far back as 1836 and 1845, with that of the present asylums in this country, with the recent views of Dr. Clouston, as stated in his writings, and especially as to the topics of hospital construction, occupation, restraint, and personal freedom of the insane. The October number contains, among original articles, the papers read by Dr. Godding on "Progress in Provision for the Insane," for the past forty years—1844 to 1884—and is an able presentation of the real progress, especially in asylum provision, during that period. It draws from Dr. Gray, in the same journal, an elaborate reply, in which he claims that Dr. Godding's historical statements are, in some respects, misleading, occupying therewith some 32 pages, and being fully one-third longer than Dr. Godding's paper. Without passing upon or examining the details, of the differences of the two writers, we may say that both papers give, taken together, a fair history of what we may call "American asylum development and improvement" for the period named, and is valuable as such.

Dr. Chapin's paper on "Mental Capacity in certain states of Typhoid Fever," is valuable as a medico-legal study, and the cases he cites are important in connection with the investigation of testamentary capacity in legal issues of this character. We regret that we have not space to give it entire in this JOURNAL.

Dr. Orpheus Everts' paper on "Treatment of the Insane," is a defense of both mechanical and chemical restraint, in which we think most of the English and Scotch authorities will differ with Dr. Everts, as indeed will many, if not the majority of American superintendents and alienists.

The address of Dr. Rayner at the British Medico-Psychological Association, is good reading, regarding the opposite view, as also the debates before that body, part of which are reported in our columns. It is easy to say that restraint should never be used except when absolutely necessary; this seems plausible, and is difficult to deny, but what is the criterion, the crucial test? The answer is, the judgment or will of the superintendent. Such a discretion would be liable to grave abuses. Its practical working would differ in every asylum, depending on the views or perhaps the caprice of the superintendent in charge. Some safer plan must be devised. It is monstrous to suppose that a superintendent would order restraint unless he believed it necessary now, or that it was not deemed absolutely indispensable when a chain and a ring was attached to the bed of every lunatic in England not very many years ago.

When Drs. Shaw, Chase, Alice Bennett and others, tell us that they succeed better by entire abolition of mechanical restraints, as also the Scotch and English superintendents, why should our superintendents be justified in the use of either, on uninformed or misinformed discretion, as to the necessity of restraint, when simple, better and infinitely less harmful means can be safely and prudently used, which help in the cure, and do not agitate or arouse the patient? Let Dr. Everts read the last report of Dr. Stephen Smith, our

State Commissioner in Lunacy, as to the gradual abolition of restraints in New York asylums, and let us hope that the way to their speedy and total abolition in American asylums may be speedily reached.

Dr. J. B. Andrew's paper on "New Remedies" and Dr. S. S. Schultz paper on "Asylum Location, Construction and Sanitation," conclude the number.

David Dudley Field.—*Speeches, Arguments and Miscellaneous Papers.*—(D. Appleton & Co., 1884). Edited by A. P. Sprague, Esq.

Mr. Field has been for nearly fifty years a conspicuous figure at the bar of the city of of New York, and his name has been placed for more than a quarter of a century in the front rank of American lawyers.

Never upon the bench, or in public office, save a term in Congress, he has found time, in the midst of an active practice, to do more work outside the legitimate practice of the law, than most of his confreres of the bar.

The volumes of speeches and writings that he now gives to the world, form an interesting record of the role the prominent advocate and counsel may play in literature, science, statesmanship, and in making his impress upon the era in which he lives. The most important result of the intellectual labors of Mr. Field, and which will be awarded by posterity by his biographers, will be his efforts upon codification.

With his name for the present century, and we do not doubt the next, must be indissolubly associated that effort which, in so many of the American States, has been successful, in introducing codes, of the practice of the law, and which will, doubtless, by the close of the present century be succeeded by the codification in the American States, of the common law.

But outside his labors in the profession, and upon the codes, these volumes make a record of the marvellous versa-

tility of talent, the rare faculty, power and vigor of Mr. Field, as a thinker, a citizen, a statesman, and a scholar. No lawyer's library is complete without them, and the younger men of the profession, can glean from these pages much of that splendid force and energy that has distinguished the life and character of Mr. David Dudley Field.

☞ Sample copies of this number of the JOURNAL will be sent to those known or believed to be interested in Medical Jurisprudence or the allied sciences, in the hope of obtaining permanent subscriptions.

Those receiving them will please remit, and the JOURNAL will be sent regularly.

☞ We should feel obliged to receive a few copies of Nos. 1 and 2, Vol. I., of this JOURNAL, for which we will pay $1 per copy, if in good order.

IN MEMORIAM.

William A. Beach.

By the death of the celebrated advocate, whose portrait we present to our readers in this number of the Journal, there has been lost to the legal profession a man of whom there are but few examples in a century. William A. Beach had, for thirteen years prior to his death, been regarded as one of the great advocates of the metropolis. During the thirty years prior to 1871, when he took up his residence in this city, he was, perhaps, the most prominent lawyer of the northern counties; he was engaged during that long period in nearly all the great cases outside the City of New York, in which the large corporations or the State Government were interested.

When, in response to the solicitations of his friends, he came to New York, where his fame had long preceded him, he was at once assigned a leading position at the metropolitan bar. It may, with confidence, be asserted that during the thirteen years he resided in New York, no lawyer here could be considered his superior as an advocate before a jury. In fact, Mr. Beach was the beau ideal of a jury lawyer. He was of full height, straight, and elegantly poised. There was about his bearing an indescribable air of dignity and repose, which attracted and riveted the attention. He indulged in no superfluous movements, no gestures without cause or without effect. He had a broad, capacious forehead, slightly retreating; large, prominent, clear-blue eyes; a face oval shaped, and an expression of countenance strikingly noble and intellectual.

It has been said that eloquence is no longer necessary to success at the bar; that learning, shrewdness, tact, are the

qualities that win with juries. Mr. Beach was not only one of the most adroit and skillful advocates of our times, but he was one of the most eloquent that this country has ever produced. He kept alive all the old traditions of forensic oratory; he was a perfect master of the high and difficult art of elaborate expression; his knowledge of the English language; of the great masters of style, who have preserved the "well of English undefiled;" of the Bible, from which he drew so many noble images; of Shakespeare and of Milton, was unrivaled. Add to this a rich and melodious voice, and the most finished elocution, and we get at the secret which drew such large crowds of lawyers and law students to the great trials upon which he was constantly engaged.

But it was not alone as a brilliant and powerful advocate that Mr. Beach was distinguished. He was a jurisconsult in the Roman sense; a man profoundly learned in all the laws. The greater part of his life was passed in the study and the exposition of the laws. Ambition, that quality of every lofty mind, he had; but it was altogether confined to a desire to excel, for fame and distinction in his own chosen profession. For that he lived and labored, and for that he made those sacrifices, without which distinction in any profession is unattainable. He passed his life in the library, his office and the court-room. The way from his home to his office, and from there to the court-house, is all of the great city in which he lived for so many years that was familiar to him. It has been stated to the writer by one of the family that Mr. Beach was as ignorant of the great centres of public attraction—the theatres, the hotels, the squares—as if he were a resident of another city. He had no taste for social or political distinction. To the many solicitations which had been pressed upon him to accept high judicial preferment, he ever turned a deaf ear; he preferred to be plain Mr. Beach. Magnificent in the forum, he turned, without reluctance, from the plaudits so willingly and so often bestowed upon his triumphant eloquence to the simple and unostentatious life which he led to the hour of his death.

The large sums received by the practice of his profession were not sought as an objective point, but were incidental to it. His services were always to be had on the side of right, in every cause in which great social or money power was pitted against the weak and the oppressed, and without thought of compensation.

In the famous case of Tilton *vs.* Beecher, Mr. Beach was leading counsel for the plaintiff. He was exclusively engaged in this case during the greater part of a year. In the trial of it, the fame of which carried the name of Mr. Beach into every home in the country, he found a field worthy of all his high and varied legal accomplishments, having for his opponents some of the greatest and most famous lawyers in the land. His conduct of that case has fixed his fame upon a solid and enduring basis. To the volumes containing the proceedings on that trial, law students and active practitioners are recommended and are accustomed to go for knowledge of the most finished methods of the advocate; for models of the examination of witnesses, for the rules of evidence practically applied, and for examples of reasoning and of eloquence unsurpassed by any in legal literature.

But the most interesting case, from a medico-legal standpoint, in which Mr. Beach was ever engaged, was that of The People *against* Edward S. Stokes, for the murder of James Fisk, Jr. In the second trial of that case, which resulted in a conviction of the prisoner for murder in the first degree, Mr. Beach conducted the prosecution; and it is the testimony of the distinguished physicians who were called as experts on either side on the trial, that Mr. Beach's presentation of the case to the jury on the question of insanity was the most masterly exposition of the facts and the law on that most important head of medico-legal jurisprudence, to which they had ever listened, or which they had ever read. His examinations of the expert witnesses displayed the highest powers of analysis, and the most profound acquaintance with the medical and psychological laws governing the question of in-

sanity. For a knowledge of the intricacies and difficulties on that question, liable to arise upon a trial, the attention of the medical expert could be directed to no better sources of information or objects of study, than the examinations by Mr. Beach of the witnesses in that celebrated case.

Mr. Beach became a member of the Medico-Legal Society in 1873, and while he did not write any papers to be read before the Society, he was always deeply interested in, and a close student of medical jurisprudence. He was a native of Saratoga county and was seventy-five years of age when he was called away from the scenes of his labors and his triumphs. He did not have the advantages of a collegiate education, but he became, notwithstanding, a conspicuous example of a lawyer, learned in the law, and a man of high culture and attainments. As he lived, so he died ; he requested that no ostentatious ceremonies should mark his funeral, but that quietly and without show his remains should be laid beside those of his beloved mother in the family vault at Troy.

The fame of a great advocate is transitory. It passes away with the occasion that brings it forth. Already the names of Wirt, Pinckney, Choate, Hoffman belong to the vague realms of tradition ; so, in the natural course of events, will it be with the subject of this sketch. But for years yet to come, the legal students who flocked to hear and study the most perfect model of our times, will continue to cherish, in affectionate remembrance, the name of William A. Beach.

Mr. Beach was born at Saratoga Springs, December 13th, 1809, and died in the City of New York, June 28th, 1884.

Paul Zacchias.

It is about three centuries since Paul Zacchias commenced his wonderful career as practical physician, teacher of medical science, medico-legal jurist, philosopher and poet. Who has ever heard of Paul Zacchias? What interest can there be in the history of a man whose name is alienist unknown, that the Medico-Legal Journal should busy with it, and conjure up his memory in these busy times of ours? We will answer at once. He was the father of Medico-Legal Science; to him is due the bringing into system, of that peculiar combination, which compels the jurist to examine into the physico-mental condition of the man who stands charged with breaking the law, and the physicist to inquire into the working of the physiological machine, in order to trace a disorder, if any there be, and to drag to the light of day the mysterious cause, that broke the harmony between mind and body; thus discriminating between the responsibility of the will-power, and the irresponsibility of fatality. Medico-legal investigation, may be said to have been introduced into the practice of the courts, by the penal code of Emperor Charles V. in 1532, but it was only with the remarkable scientific productions of Paul Zacchias, that medical jurisprudence became a science.

We know, however, but little of his life. Not even the date of his birth or death, are accurately known, but in a general way, he lived and died in Rome between the last part of the 16th and the middle of the 17th century. He occupied the high position of body physician to Pope Innocentius X., he was "*Archiater* and *Protomedicus*," in the capacity of which, he had to render opinions to the highest administrative commission of the Papal States, on all matters relating to public hygiene, and was also the ex-

PAUL ZACCHIAS.

pert attached to the "Rota romana," the highest Court of Appeals, composed of twelve princes of the church. His reputation as an authority, on theology and jurisprudence was well established throughout Italy; and his talents for poetry, music and painting were generally appreciated. He wrote a large number of books, but we are chiefly interested in the great work of his life, the "*Quœstiones Medico-Legales.*"

That work is divided into three volumes. The first contains the decisions of the "Rota" or Court of Appeals, and the others, the questions propounded to him and his opinions rendered. It is very remarkable, indeed, that there is hardly a question known to medico-legal science of to-day, which is not treated in that remarkable book, while problems are taken into consideration which our advanced position of physiology is not yet prepared to solve satisfactorily. Such, for instance, are the questions on the formation of Hermaphrodites, the animation of the fœtus, superfœtation, &c. Another treatise published by him, discusses one of the most vital questions of medico-legal science. It is entitled "*De dementia et rationis laesione et morbis omnibus qui rationum laedunt quœstiones,*" which furnish hundreds of observations regarding mental diseases that may be studied with interest and profit to this day.

The sixteen or seventeen essays, treatises and books published by him, give evidence of his profound learning, conscientious investigation, versatile erudition and many-sided genius. Honor to his memory.

We give in this number two portraits of this distinguished man, which are so unlike that we give their history.

Dr. Herman Kornfeld, of Grottkau, Silesia, sent us the first which was furnished him by a friend in Florence, copied from an original painting. After this we received the November number of *Fredrick's Blatter*, containing a portrait, of which we do not know the origin. Believing that both would be of interest to our readers, we have reproduced them.

Paul Zacchias.

The author of the "*Quæstiones Medico-Legales*," to whom the name of the "Founder of this Science" rightly has been given, was born in Rome in 1584, and died there in 1659, at 75.

His excellent disposition, his wonderful assiduity, his exquisite education won him early a great fame. Learned in jurisprudence, rhetoric, medicine, philosophy, theology; cultivating poetry, music and painting (he has produced some more than dilletanti works of art), knowing men and things, and above all of a respected character, he was chosen by Pope Innocents X., whose physician he was, to direct the medical affairs of his estates, and to advise him in all sanitary matters.

His great work is well worth studying. As in all matters of science, genius gives ideas, works them out with the means at hand, and for a time they become authority as to certain results. Followers come in due course with improved methods, to point out errors and advance science, but the original idea survives, as valuable to-day as centuries ago, and it will amply repay scientific men to retain and enlarge upon it with the improved means for observation, which every succeeding year contributes. I desire to do this for Zacchias—namely, to show what legal-medicine has to thank him for; what new productive ideas he has introduced, and what of his work will live.

Voluminous as are the "*Quæstiones*," it will require a special paper to make a proper frame to the portrait of the master which appears in this number. I am indebted to Prof. Suriani, of Florence, for the photograph, who kindly allowed it to be taken from an old painting.

Herman Kornfeld.

Note by the Editor.—The foregoing was received from Dr. Herman Kornfeld after our tribute was in type. His brief characterization of Zacchias is so admirable, that we hasten to add it to what has already been contributed.

PAUL ZACCHIAS.

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Errata.—On page 407, third line from bottom, J. E. McIntyre should read Simon Sultan.

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ANNUITY ACCOUNT.

	No	Ann. Pay'ts.		No.	Ann. Pay'ts
Annuities in force, Jan. 1st, 1883.	55	$19,200 91	Annuities in force, Jan. 1st, 1884.	61	$23,134 31
Premium Annuities		3,712 44	Premium Annuities		3,674 96
Annuities Issued	7	4,433 40	Annuities Terminated	1	537 48
	62	$27,346 75		62	$27 346 75

INSURANCE ACCOUNT.

	No.	Amount.		No	Amount.
Policies in force, Jan. 1st, 1883.	106,214	$329,554,174	Policies in force, Jan. 1st, 1884.	110,990	$342.946,032
Risks Assumed	11,531	37.810,597	Risks Terminated	6,755	24,418,739
	117,745	$367,364,771		117,745	$367,364,771

REVENUE ACCOUNT.

Dr.			Cr.	
To Balance from last account		$92,782,986 08	By paid Death Claims	$5,095,795 00
" Premiums received		13,457,928 44	" " Matured Endowments	2,866,261 73
" Interest and Rents		5,042,964 45	Total claims—$7,962,056.73	
			" " Annuities	27,661 38
			" " Dividends	3,138,491 69
			" " Surrendered Policies and Additions	2,831,150 71
			Total paid Policy-holders—$13,959,360.51	
			" " Commissions, (payment of current and extinguishment of future)	886,126 90
			" " Premium charged off on Securities Purchased	405,472 22
			" " Taxes and Assessments	226,057 69
			" " Expenses	834,752 79
			" " Balance to New Account	94,972,108 86
		$111,283,878 97		$111,283,878 97

BALANCE SHEET.

Dr.			Cr.	
To Reserve at four per cent		$95,571,877 00	By Bonds secured by Mortgages on Real Estate	$46,303,472 34
" Claims by death not yet due		908,635 00	" United States and other Bonds.	25,279 040 00
" Premiums paid in advance		22,794 35	" Loans on Collaterals	15,037,910 00
" Agents' Balances		8,479 56	" Real Estate	8,633,971 89
" Surplus and Contingent Guarantee Fund		4,636 462 34	" Cash in Banks and Trust Companies at interest	3,403,249 63
			" Interest accrued	1,310,588 23
			" Premiums deferred, quarterly and semi-annual	1,039,229 68
			" Premiums in transit, principally for December	140,786 48
		$101,148 248 25		$101,148,248 25

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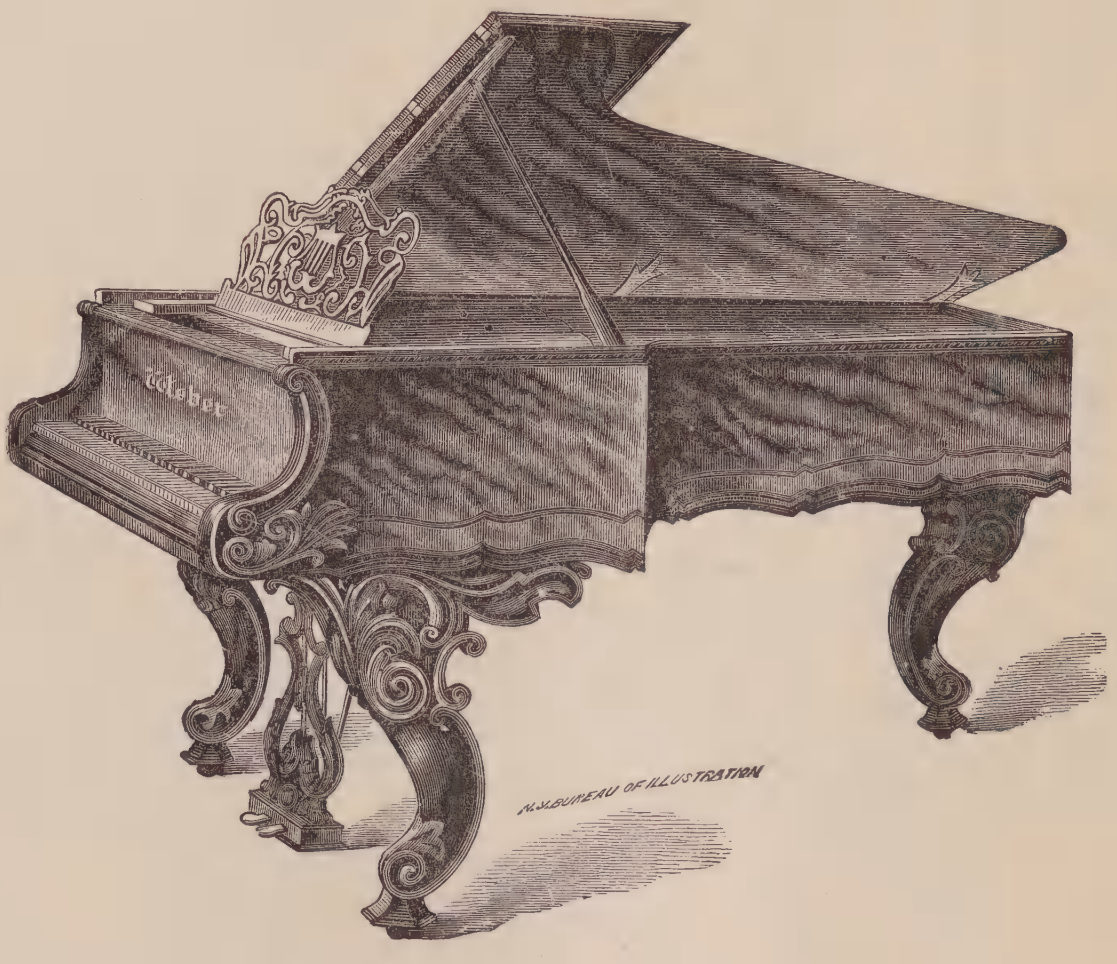

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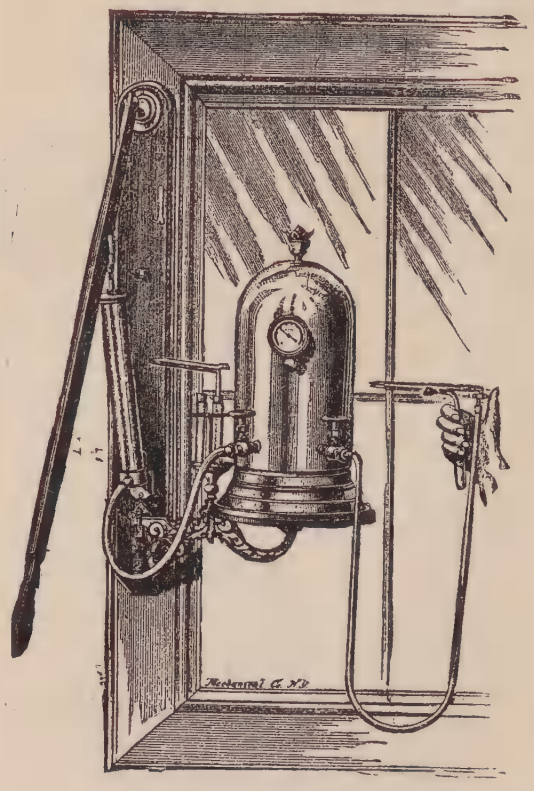

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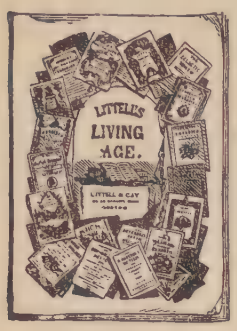

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